

STATE OF CALIFORNIA

MEETING OF THE
CALIFORNIA INSPECTION & MAINTENANCE REVIEW
COMMITTEE

WEBCAST

Tuesday, May 24, 2005

California Air Resources Board

1001 I Street

Sacramento, California

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MEMBERS PRESENT:

VICTOR WEISSER, CHAIR
PAUL ARNEY
DENNIS DeCOTA
JOHN HISSERICH
BRUCE HOTCHKISS
JUDITH LAMARE
ROBERT PEARMAN
JEFFREY WILLIAMS

MEMBERS ABSENT:

TYRONE BUCKLEY
GIDEON KRACOV

ALSO PRESENT:

ROCKY CARLISLE, Executive Officer
JANET BAKER, Administrative Staff

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P R O C E E D I N G S

[Beginning of meeting not recorded]

MR. CARLISLE: — information I had on it,
five additional staff at the Air Resources Board.

MEMBER WILLIAMS: Could you explain what 'in
suspense' means?

MR. CARLISLE: It's kind of been tabled for
now until they have more information on the bill.

CHAIR WEISSER: It's a very common practice
in the legislative process to put a bill in suspense.
The committee chair at some point in time decides when
she or he thinks it's appropriate to bring up. The
author can ask that a bill be placed in suspense or in
fact the committee itself can put the bill in suspense.

MEMBER WILLIAMS: Thank you.

MEMBER LAMARE: Back burner.

CHAIR WEISSER: Or they're waiting for things
to ripen, like our report.

MR. CARLISLE: The next bill is AB578 and
that bill is one that requires that the Bureau of
Automotive Repair hold public meetings if they're going
to increase the number of vehicles directed to test-
only. That passed Appropriations, it's now in the
Senate. It's been read the first time and it's been
sent to the Senate Rules Committee for assignment.

1 And the last one –

2 CHAIR WEISSER: Excuse me, before you move
3 on, Rocky, do you know what the vote was at
4 Appropriations?

5 MR. CARLISLE: I do not.

6 MEMBER DECOTA: It was a unanimous vote of
7 the members. The bill has not received a negative vote
8 to date from any legislator.

9 MR. CARLISLE: I should mention, too, it did
10 have a significant amount of support. As I recall,
11 there were five groups that supported it and one
12 opposed.

13 Last but not least, AB898, that's the Mays
14 bill that requires the Smog Check technicians to
15 receive only 60 hours of training prior to taking the
16 test for a Smog Check technician. That one has been
17 re-referred to the Committee on Transportation and is
18 now a two-year bill.

19 CHAIR WEISSER: Very good. It might be a
20 good idea for the tracking report if you could add
21 another column on, Rocky, and indicate if the Committee
22 or the position the Committee has taken and the date
23 that it took that position.

24 MR. CARLISLE: Will do.

25 CHAIR WEISSER: Members, are there any

1 questions on any of these measures, is there any
2 information anyone would like to share?

3 MEMBER DECOTA: Chairman Weisser, would it be
4 appropriate to go over the bills as far as Committee
5 support? I don't think I have that noted, I'd like to
6 have that. Do we have positions on some of these
7 bills? I know we do on 386 but I'm -

8 CHAIR WEISSER: We also have 383 a letter in.

9 MEMBER DECOTA: Okay.

10 CHAIR WEISSER: 386 we did last time. And I
11 think that's it; is that correct?

12 MR. CARLISLE: Correct.

13 MEMBER DECOTA: What would be the process of
14 getting a letter of support from the Committee on a
15 bill?

16 CHAIR WEISSER: Considering how formal we
17 are, I suspect it would require a Committee member
18 raising that issue as to whether the Committee should
19 take a position and then allowing for adequate
20 discussion and then a vote.

21 Do you have any alternative views on that,
22 Rocky?

23 MR. CARLISLE: No, that's what we've done in
24 the past. For the last two bills we sent letters of
25 support to the Assembly.

1 CHAIR WEISSER: On bills that we felt like
2 engaging on.

3 MEMBER DECOTA: I would like to ask the
4 Committee for their support on Assembly Bill 578 by
5 Horton.

6 CHAIR WEISSER: You're making that as a
7 motion.

8 MEMBER DECOTA: A request. I don't know.
9 Yes, as a motion, right.

10 CHAIR WEISSER: Okay. And is there a second
11 to that motion?

12 MEMBER LAMARE: Second.

13 CHAIR WEISSER: Okay, that's seconded by
14 Committee Member Lamare. Now what I suggest we do,
15 then, is enter into a period of discussion on the bill
16 and perhaps we should ask Rocky first to describe his
17 understanding in more detail as to what the bill is
18 proposing to do, and if you know, Rocky, or care to
19 speculate your perspective as to why the bill or why
20 the measure is being brought forward.

21 MR. CARLISLE: It's my understanding that
22 this bill simply requires that the Bureau hold public
23 meetings to discuss any impact on industry, the
24 consumer, business in general, that an increase in
25 directed vehicles to test-only would have on them, and

1 only after those public meetings could they then
2 possibly increase the amount of vehicles going to test-
3 only.

4 CHAIR WEISSER: And do you have any
5 understanding of the rationale behind the bill, the
6 concerns that have motivated the measure?

7 MR. CARLISLE: I think the concern has been
8 that with the recent increase – well, not recent
9 increase but the increase to 36 percent and the
10 reduction last year in the number of tests available to
11 the industry, they've been concerned that any further
12 reduction in vehicles going to test-and-repair could
13 drastically have a negative impact, which it's already
14 had an impact, but it could further damage possibly the
15 test-and-repair industry.

16 CHAIR WEISSER: Thank you. We have two
17 members, I think, that have indicated they want to say
18 something, and I think, Jude, you had raised your hand
19 first and then I'll go back to you, Dennis.

20 MEMBER LAMARE: Thank you, Mr. Chairman. As
21 the seconder of the motion, I'd like to explain my
22 second. That is, I think I seconded the motion because
23 I think we should address this and discuss this bill
24 and talk about it. The bill as written today is a good
25 government bill. It simply requires a process, a

1 public hearing process to be engaged when the test-only
2 referral percentage is increased. My trepidation here,
3 however, is that the bill may get amended in the Senate
4 and that any support that we have should be as written
5 and with the proviso that if it's changed we withdraw
6 our support and reconsider what our position is.

7 As it's written, I think it's not only worthy
8 of our support but it's very much linked to my reasons
9 for supporting AB386. That is, in the Smog Check
10 Program we don't really have a public hearing process
11 to demonstrate the air quality benefits of the
12 decisions that are made or the decisions that are not
13 made in the program.

14 The IMRC is kind of a backup public hearing
15 process. We are not the decision makers. We don't
16 make any decisions about the program, and therefore,
17 we're sort of a safety valve for information and
18 opinion to be expressed, but it seems to me that,
19 certainly for me on my support for AB386 Lieber, to
20 move the Smog Check Program to the air regulatory
21 agency, one of the major reasons why I support that is
22 so that there is a decision making body that has a
23 public process where the decision makers follow rules
24 of engagement with the public and there is a civic
25 culture involved in the decision making.

1 I specifically would like to see decisions
2 like referral to test-only meet the same tests for
3 adoption that Moyer Program meets or any other air
4 quality program. The staff comes forward and they make
5 a demonstration of the air quality benefit that is
6 expected and the costs or impacts that are expected
7 from the rule or regulation, and that's subject to
8 review by the public in an open forum where the
9 decision makers are actually present and listening.

10 So, Mr. Pearman has arrived and needs to be
11 guided through the maze.

12 CHAIR WEISSER: Bob, we're going to send a
13 guide back to you to bring you to the front because
14 this is constructed in a particularly clever way to
15 ensure you can't get here from there.

16 MEMBER LAMARE: Just to make sure that the
17 public and the decision makers are a nice arm's length
18 distance, which is my point here, that the decision
19 about referral to test-only is extremely removed from
20 public participation, and so I think the bill is worthy
21 of support because it brings a public process to that
22 issue. Thank you.

23 CHAIR WEISSER: Thank you. We'll go to
24 Dennis and then John.

25 MEMBER DECOTA: By the way, I agree with

1 Member Lamare as far as her overview and hope that that
2 would apply to all bills that we take a position on.

3 CHAIR WEISSER: Thank you.

4 MEMBER DECOTA: The other thing is, the bill
5 has been amended one time. The amendment brings in the
6 Air Resources Board in conjunction with the Bureau of
7 Automotive Repair for the oversight issues.

8 CHAIR WEISSER: Thank you. John.

9 MEMBER HISSERICH: Well, now my question was
10 just answered, because as you originally stated it was
11 the Bureau and I wondered if ARB was in, so that's
12 fine.

13 CHAIR WEISSER: Thank you. Are there any
14 other comments from Committee members at this point in
15 time? We'll ask for public comments.

16 Mr. Ward. Randy, you'll find that there is
17 no magic green light to give you an indication when
18 three minutes is up. What I'll ask is for Dennis to
19 signal you when we're at, let's say two minutes, and
20 then wave his hands frantically at two and a half
21 minutes so you get an indication. We'll try to lean on
22 the side of liberality.

23 MR. WARD: Okay, thank you, Mr. Chairman.
24 Randy Ward, California Emissions Testing Industries
25 Association.

1 MR. TRIMLETT: We can't hear you.

2 MR. WARD: Randy Ward.

3 CHAIR WEISSER: Is the button pushed, Randy?

4 We may not have it set up. We'll send our trusty

5 executive officer out to see if we can get this

6 working.

7 MR. WARD: Randy Ward representing the

8 California Emissions Testing Industries Association,

9 and Mr. Chairman, just a note, I don't think I've ever

10 violated the three minutes, so you're not going to have

11 to worry.

12 With regard to AB578, it was amended to

13 include the Air Resources Board, and more than that,

14 the Air Resources Board, I think, was asked to

15 participate in some specific language that was then

16 accepted by the sponsors and the authors, and as a

17 result of that, my association has removed their

18 opposition, so while I'm not sure we're going to end up

19 supporting the bill, we've removed our opposition.

20 Thank you.

21 CHAIR WEISSER: Thank you very much. Len.

22 MR. TRIMLETT: Len Trimlett, smogrfg.com.

23 Victor, trust me. In principle I support AB578. It's

24 a step in the right direction to look at the system as

25 it exists. The one problem that I see with AB578 that

1 has not been addressed, I as a consumer have been
2 forced to go to test-only against my will. Okay. Two
3 vehicles. The thing that is missing from this bill is
4 that the consumer should have a choice to go wherever
5 he wants.

6 I want to go back to the station that did my
7 smogs before this fiasco. I want to be able to go to
8 the station of my choice. If I'm forced to go to a
9 test-only station, then I have to go somewhere else to
10 get it fixed if it's going to fail. I want to be able
11 to repair my vehicle at one place that I trust. The
12 test-only places that I've went, I don't trust to go
13 back again, I would look for a third station. The
14 test-only is more like a big test mill, in, out, next,
15 next, next, next.

16 I strongly - I'm not saying get rid of test-
17 only. I'm saying give me the choice as a consumer
18 after you evaluate the results of the program to go to
19 the station of my choice. I want to do business with
20 somebody that I can feel comfortable with.

21 Go ahead, Dennis.

22 MEMBER DECOTA: No, no. You have one minute.

23 MR. TRIMLETT: Okay. Sorry. I would like to
24 see that bill amended to give me back the choice to go
25 to the station of my choice. Thank you.

1 CHAIR WEISSER: And thank you. Chris.

2 MR. ERVINE: Good morning, everybody. Chris
3 Ervine, STARS, coalition of state test-and-repair
4 stations. We support the bill. If we had had this
5 kind of consumer and industry input to BAR ten years
6 ago, we wouldn't be discussing this now. I think it's
7 very important that the consumers have a say as well as
8 the industry, and my feeling is that industry's input
9 has been totally ignored and in spite of what they have
10 inputted, the Smog Check Program has gone in a
11 completely different direction. Thank you.

12 CHAIR WEISSER: Thank you very much, Chris.
13 I really appreciate members of the public being as
14 direct and concise and clear as they've been so far
15 today on this measure. Are there any other members of
16 the public?

17 I'd like to ask whether or not either BAR or
18 ARB have yet been able to get an approved position out
19 on this measure. Is there anyone from ARB here? I see
20 a head from an ARB person of renown nodding negatively
21 that they have not. How about BAR? Also not. That's
22 not unusual; it takes quite a bit of time for agencies
23 to get positions developed and approved through the
24 system.

25 Are there any other comments or questions

1 from any members of the Committee?

2 The recorder will note that Mr. Pearman
3 joined us about five minutes ago and what we're doing
4 is discussing, Robert, a motion made by Dennis,
5 seconded by Jude, that the Committee take a position on
6 AB578 Horton, which in overall terms would provide or
7 require a public hearing and participation of both BAR
8 and ARB at the hearing in terms of reviewing whether or
9 not there should be an increase in the number of
10 directed vehicles to test-only, at least that's how the
11 measure stands as of today. What we heard and I think
12 the most interesting thing is the comments made
13 initially by Mr. Ward in terms of the removal of his
14 organization's opposition to the measure.

15 So with that, I'd like to indicate that we
16 now have to take a vote on the measure and we now have
17 a quorum, so all in favor of the Committee sending a
18 letter drafted along the lines that Dennis initially
19 put forward but modified with the comments from Member
20 Jude Lamare, because in fact this is a measure, I
21 think, that has every chance of morphing, and if it
22 changes in one way or another it might impact whether
23 or not we want to continue our support of the measure.

24 All in favor of our supporting this measure
25 please signify by saying aye.

1 IN UNISON: Aye.

2 CHAIR WEISSER: Are there any opposed?

3 MEMBER PEARMAN: I abstain.

4 CHAIR WEISSER: All right, the minutes will

5 note that Member Pearman abstained from voting on this

6 measure. We still have sufficient votes for it to

7 pass, so we have seven affirmative votes and one

8 abstention, and that will – okay, I can't count. Six

9 affirmative votes and one abstention, so we will go

10 into support on that.

11 Rocky, develop a letter, I'll review it and

12 we'll send it out shortly.

13 – oOo –

14 Now since we do have a quorum, I'd like to go

15 back and ask the Committee for a motion to approve the

16 minutes for the April 26, 2005 meeting. Do I have such

17 a motion? I hear Mr. Hisserich making that motion. Is

18 there a second?

19 MEMBER WILLIAMS: I'll second.

20 CHAIR WEISSER: And Mr. Williams seconded.

21 Is there any discussion on the minutes? Hearing none,

22 all in favor of adopting the minutes please signify by

23 saying aye.

24 IN UNISON: Aye.

25 CHAIR WEISSER: Are there any opposed?

1 Hearing none, the minutes are adopted as put forward.

2 - oOo -

3 Are there any other aspects of the
4 legislative agenda that anyone on the Committee would
5 care to bring forward at this time?

6 Okay. I think then we move into the report
7 topics portion. Oh, pardon me. I have interestingly
8 an agenda that's out of date.

9 FEMALE VOICE: Oh.

10 CHAIR WEISSER: So we'll move into the update
11 by the agencies of activities that have taken place
12 during the past month, and I'd ask first that the
13 Bureau of Automotive Repair come forward and let us
14 know any significant or mildly interesting issues that
15 are occurring. Is there someone from BAR that would
16 like to make that report?

17 MR. MUNDY: Rich Mundy, Bureau of Auto
18 Repair. I have only one item for you today and that's
19 to introduce Wayne Ramos. Several weeks ago, the chief
20 and our Department decided that we need to probably
21 establish some formal liaisons between various
22 different stakeholders, whether it be ARB, DMV or the
23 IMRC. In doing so, we've assigned one person each to
24 be that official liaison to address issues that you
25 have coming up at meetings, take them back to BAR if

1 need so and develop some kind of study that's necessary
2 to respond to your questions. So with that, we've
3 asked that Wayne be that liaison, sent official
4 communication to Vic.

5 And Wayne has more than 20 years of
6 experience in this program. They may be mostly in the
7 field operations side of it, but believe me, he's well
8 experienced in that task and can probably help also
9 during the meetings to help keep you on track and give
10 you some kind of perspective on issues that you may
11 need. So with that, we're going to introduce Wayne and
12 he'll have a few items for you.

13 CHAIR WEISSER: Very good. I want to ask
14 before that occurs, liaisons have been established
15 between BAR and other agencies like ARB or DMV, and
16 some people may be reading tea leaves and saying, hmm,
17 does this signify anything? To me, and in the
18 conversation I had with Chief Ross yesterday when he
19 called, what it signifies is management attempting to
20 organize their work in a more efficient manner, so I
21 don't attribute this to anything more than trying to
22 become efficient management.

23 And Wayne, I'm not sure if you got the long
24 straw or the short straw in this, but I personally and
25 on behalf of this Committee welcome you into your new

1 role. Thank you very much.

2 MR. MUNDY: It has been one of our desires to
3 place somebody here that can help especially this body.
4 With ARB and DMV it's more of in meetings and research
5 projects and things like that, but with this official
6 public body it's important probably to have somebody
7 here at your disposal as well.

8 Go for it, buddy.

9 MR. RAMOS: Well, thank you. I am Wayne
10 Ramos and I do appreciate this appointment to act as a
11 liaison between IMRC and BAR, and hopefully you're
12 right, Victor, in terms of me acting as a point person
13 that will hopefully make cross-communication between
14 BAR and IMRC a little more efficient, and I hope to
15 accomplish that task. I don't have a whole lot in
16 terms of update. Again, my appointment is fairly new.
17 I was just appointed Friday at 4:30 so I don't have a
18 whole lot, so I hope this won't be judgmental in terms
19 of, you know, my future role in this, but just a couple
20 of things.

21 We are working on the extension to the
22 referee contract. You know, we're looking at ways
23 again on that aspect of that program to make it more
24 efficient, so we're looking at a means of what the
25 referee's current responsibilities are and whether or

1 not BAR may be able to assume some of those
2 responsibilities to make it a little bit more efficient
3 and maybe hopefully make that contract a little less
4 expensive. Those are the things we're looking at with
5 respect to that aspect of it.

6 We also have completed our study on the
7 roadside sensing program. We're finalizing that report
8 and hopefully sometime in mid summer we'll be able to
9 get you out a report with respect to the result of that
10 study.

11 CHAIR WEISSER: Excuse me. Will that be a
12 report that is a joint BAR/ARB report?

13 MR. RAMOS: We'll be working with ARB, yes,
14 in terms of the results of that study, yes.

15 CHAIR WEISSER: And you think it's going to
16 be done mid -

17 MR. RAMOS: Hopefully mid summer.

18 CHAIR WEISSER: Is that July?

19 MR. RAMOS: Around July, yes.

20 CHAIR WEISSER: Thank you, go on.

21 MR. RAMOS: Okay. That's really all I had
22 were just those two.

23 CHAIR WEISSER: What's the status on the
24 referees, what's the timing on the referee issue?

25 MR. RAMOS: In terms of the contract itself?

1 CHAIR WEISSER: Well, yeah, the contract and
2 your evaluation of the things you're going to try to do
3 to make it more efficient.

4 MR. RAMOS: Well, there are some
5 responsibilities that both the Bureau field staff and
6 referee both do concurrently that has to do with some
7 of the dispute resolution aspect of the referee system,
8 so some of that could be delegated to the field
9 personnel to make it a little bit more efficient.
10 Those are some aspects of the referee program we're
11 looking at, not to say that we've made any final
12 decisions but we are looking at those elements of the
13 program.

14 CHAIR WEISSER: In the discussion that came
15 before us a few months ago by the community colleges
16 there was a discussion of potentially privatizing the
17 system, going out for bid to see if private vendors,
18 presumably the industry, might be able to assume some
19 of the roles, and is that still being actively
20 considered?

21 MR. RAMOS: That is being considered. You
22 know, there's pros and cons to that aspect of it. We
23 did look into that aspect of it, and again, I don't
24 really have any information for you as to whether
25 that's the direction we're going to go or not at this

1 stage of the game.

2 CHAIR WEISSER: Are you considering doing any
3 sort of public hearing to generate some input prior to
4 your release of the report or your decision making?

5 MR. RAMOS: That, I'm not certain, but I'll
6 certainly go back and determine if we are going to
7 establish any public meetings to get input. That's a
8 good question, I'll have to research that.

9 CHAIR WEISSER: And with the remote sensing,
10 your expectation is a report would come out, let's say
11 mid-summer.

12 MR. RAMOS: Um-hmm.

13 CHAIR WEISSER: Theoretically July, but it
14 could be August. I have no problem, you know, whatever
15 the timing is. What's your strategy in terms of
16 releasing the report? Are you going to - remote
17 sensing is an item of, you know, a lot of interest to a
18 lot of people. Are you just going to kind of flop it
19 out there or are you going to have some sort of a
20 meeting to discuss it, or what are you going to do?

21 MR. RAMOS: That again, I'm not certain
22 exactly how we're going to, once the report is looked
23 at, as to what we're going to do with the report other
24 than work with ARB, but beyond that I'll have to look
25 into that aspect of it.

1 CHAIR WEISSER: Okay. I'd just be interested
2 in knowing what your strategy is in that regard. It
3 might be advisable to arrange for some sort of informal
4 get together with people who have interest in that
5 subject just so that they can ask questions and get
6 answers rather than, you know, it might save a lot of
7 people a lot of time.

8 MR. RAMOS: No, I totally agree. I will look
9 back into that.

10 CHAIR WEISSER: Are there any questions from
11 either the executive officer or members of the
12 Committee associated with activities that have taken
13 place in the last month? Mr. Carlisle.

14 MR. CARLISLE: Mr. Chairman, I was going to
15 comment there's also a letter in your packet from Chief
16 Ross with regard to a referee update that's got some
17 more information in there for you as well.

18 CHAIR WEISSER: And we would find that?

19 MR. CARLISLE: That's on tab four about the
20 fourth letter back. And if I may, I should also
21 mention that this meeting is being webcast today, so
22 everybody speaking is going across the Internet. It's
23 also on conference call, people can call in. That was
24 noticed when we sent out the agenda.

25 CHAIR WEISSER: Very good. Is anyone on the

1 phone yet? Okay. Any other questions?

2 Wayne, I want to thank you very much. I'm

3 sure we'll be seeing a lot of you in the days and

4 months to come ahead. Congratulations.

5 MR. RAMOS: I appreciate that, Victor, and I

6 look forward to this appointment, so thank you.

7 CHAIR WEISSER: Thank you.

8 - o0o -

9 Okay, is there someone from the Air Resources

10 Board that would care to come forward?

11 MS. MORROW: Sylvia Morrow, Air Resources

12 Board. I just thought I'd give you a few updates on

13 some of the things that's been happening since the last

14 month.

15 Just to let you know, the joint ARB Smog

16 Check evaluation contract RFP, the submittals are due

17 this Thursday at ten a.m., so we're well on the process

18 on that, and the contract, we're planning on having it

19 awarded by the end of June.

20 Also, ARB and BAR have worked together on the

21 - to finalize the draft 2004 legislative report, and -

22 yes. And we have not changed any of our original

23 recommendations. It is currently going through

24 ARB/CAL-EPA management approval and then it will go

25 through the BAR/DCA/Consumer Services Agency approval

1 for release, so we are well on that process.

2 CHAIR WEISSER: Sylvia, hold on, I need to
3 catch my breath. Let me make sure I understand what
4 you've said.

5 The report that we received mid-2004, the
6 joint report, BAR/ARB report, that same report that a
7 couple of days before the meeting we were going to
8 adopt BAR kind of moved away from the recommendations.
9 Now you guys have chatted about it further?

10 MS. MORROW: Yes, we have worked out the
11 issues and we have made an addendum to the report to
12 reflect what has happened since the release of that
13 report last year and to address some concerns, but like
14 I had said, the recommendations in the original report
15 have not changed.

16 CHAIR WEISSER: So now, as far as you
17 understand, the BAR supports the recommendations in the
18 report?

19 MS. MORROW: BAR supports, I believe with how
20 the addendum is written they do support what's in the
21 report.

22 CHAIR WEISSER: Do you want to give us a hint
23 as to what the addendum says?

24 MS. MORROW: It just basically talks about,
25 like I said, what has happened in the process, that the

1 Legislature has acted on some of the issues, the public
2 process we have taken with the IMRC, some of the public
3 comments that are received, and also that before BAR or
4 ARB are to enact any of the recommendations that are in
5 the report we will do a full, you know, cost analysis
6 and go through a full process to make sure that the
7 recommendations meet all the requirements.

8 CHAIR WEISSER: I'll go to John, but I'm not
9 done.

10 MS. MORROW: Okay.

11 CHAIR WEISSER: John?

12 MEMBER HISSERICH: Well, just quickly. The
13 process that you described, it's going through the ARB
14 process right now.

15 MS. MORROW: Well —

16 MEMBER HISSERICH: And then subsequent to
17 that it goes through the BAR process and then it goes
18 to print?

19 MS. MORROW: Well, it's a joint report and so
20 the Governor has to approve its release, so we're going
21 to vet it through our process and then it will go
22 through the BAR process before it can be released.
23 It's a standard.

24 MEMBER HISSERICH: And you'll get a look at
25 it after the vetting at BAR.

1 MS. MORROW: Well, we have worked with BAR
2 staff to make sure that the addendum, at least on a –

3 MEMBER HISSERICH: Covers their concerns?

4 MS. MORROW: It covers their concerns,
5 correct.

6 CHAIR WEISSER: Though I guess it would be
7 fair to say that this has not been finally reviewed and
8 approved by BAR yet; is that correct? If it's going
9 through some sort of process to be reviewed, it must
10 not be approved.

11 MS. MORROW: Well, it has been reviewed up
12 through Chief Ross, and so it still has to be vetted
13 through –

14 CHAIR WEISSER: So it's going through the DCA
15 process.

16 MS. MORROW: It still will have to go through
17 that, but we have worked out our concerns with Dick
18 Ross and his staff.

19 CHAIR WEISSER: Well, that's certainly good
20 news, at least insofar as this Committee member is
21 concerned.

22 MS. MORROW: Okay.

23 CHAIR WEISSER: Can you give me a sense of
24 timing?

25 MS. MORROW: I think, you know, with it going

1 | like I said, with it going through two agencies, I mean
2 | —
3 | CHAIR WEISSER: Is there a reason that it's
4 | going sequentially rather than in parallel? Wouldn't
5 | that kind of speed the process up a little bit?
6 | MS. MORROW: Well, I think that, at least
7 | from what my understanding is, is that it will be
8 | easier to go through the DCA process once we already
9 | have the signatures on our side for the BAR.
10 | CHAIR WEISSER: But I remember in the
11 | development of this report that it was interminably
12 | delayed after its completion and approval by ARB by the
13 | BAR/DCA review process.
14 | MS. MORROW: Yeah.
15 | CHAIR WEISSER: Is that likely to occur
16 | again?
17 | MS. MORROW: I have no idea. I mean, there's
18 | a new BAR chief in place so things are different over
19 | there since the last time.
20 | CHAIR WEISSER: Well, I certainly want to
21 | applaud the agencies for being able to work out the
22 | differences that had erupted just prior to our meeting
23 | and express a great deal of curiosity regarding this
24 | turnaround again, the second turnaround by the BAR, and
25 | I would ask if anyone present in the audience from BAR

1 might be able to come up and share any information
2 associated with what motivated that turnaround so that
3 we might better understand how to do our work so that
4 it receives adequate or appropriate consideration from
5 the agencies.

6 MS. MORROW: Well, I will comment from ARB I
7 know that Tom and Dick made a commitment to work
8 together and I think that they have, you know, through
9 this process they have done that, and that's -

10 CHAIR WEISSER: Yeah, I think that's
11 wonderful and I think it's the sort of interagency
12 cooperation that, frankly, everyone should expect, and
13 I think these two people are both well intentioned and
14 professional and glad to see them working toward that
15 end, but I see no one from BAR rising to the inquiry.

16 MR. RAMOS: Hi, Wayne Ramos again. Yeah, as
17 Sylvia had mentioned, the report has been approved by
18 the Bureau Chief Dick Ross. It's been disseminated up
19 to our legal department. It will not become public
20 until it is established that it is released for public
21 dissemination, so at this point in time it's DCA legal
22 and agency that's looking at the report and we can't
23 release that until they've approved it.

24 CHAIR WEISSER: I certainly understand that.
25 I am kind of curious as to what motivated the

1 turnaround in terms of the opinion of BAR regarding the
2 recommendations that are in the report, the same
3 recommendations this Committee endorsed, and perhaps
4 Chief Ross might want to describe that to us maybe next
5 meeting or you could describe it to us on his behalf.

6 MR. RAMOS: I'll certainly take that back to
7 Dick.

8 CHAIR WEISSER: Any questions or comments on
9 this? I think it's good news and I'm really pleased.
10 I'd like to see it move forward as expeditiously as
11 possible. Every day that we don't have the report out
12 is another day the Legislature and the Administration
13 do not have the benefit of your best thinking in terms
14 of cost-effective improvements to reduce emissions.

15 John.

16 MEMBER HISSERICH: You, I think, started to
17 allude to the content of the addendum or the caveat
18 that was put there.

19 MS. MORROW: Yes.

20 MEMBER HISSERICH: Can you describe that a
21 bit more as to what essentially it says in essence?

22 MS. MORROW: Well, whenever, like when the
23 ARB goes through its public process and does a control
24 measure or anything like that, it's fully vetted
25 looking at, you know, taking a good look at what are

1 the emission reductions, how cost-effective are the
2 emission reductions, what are the impacts to industry,
3 what are the impacts to various groups. So those
4 things are going to be in the current report. A lot of
5 it is just, it's very draft form so any of those type
6 of things that are needed to push a regulation through
7 or a thought through will need to be fully vetted.

8 MEMBER HISSERICH: And those are the things
9 that BAR feels more comfortable including in the
10 addendum and that's what we think may have motivated -

11 MS. MORROW: I think just looking at all the
12 impacts to everyone, the industry, the consumer and the
13 air quality, is important to both BAR and ARB.

14 MEMBER HISSERICH: Thank you.

15 MS. MORROW: Okay. Just a few more items.

16 ARB will be releasing a new working draft
17 version of the EMFAC model this June. The model will
18 be used for the upcoming eight-hour (inaudible) 2.5
19 SIP's that are due out in 2007 and 2008.

20 Also, the ARB El Monte laboratory is just
21 starting a program, they should be starting within the
22 next couple weeks or have started to take roadside low
23 pressure evap failures, bring them into the lab and do
24 the test, determine if there is a leak or if there
25 isn't a leak and then do a passing test. The reason

1 that they're doing this is that in 2002 ARB and BAR did
2 a joint low pressure evap testing program and there was
3 a very significant amount of false failures, and so
4 this is one of the things we're looking at is are the
5 false failures really that high. We don't think it is.
6 We think that with the changes in the testing equipment
7 and the changes in the procedures, that we don't
8 anticipate an excess false failure rate.

9 CHAIR WEISSER: On the evap test.

10 MS. MORROW: On the low pressure evap test,
11 yes.

12 CHAIR WEISSER: Can you talk to us a little
13 bit about the agreement that you made to settle the
14 threatened lawsuit in 2000 over the failure of the
15 system to –

16 MS. MORROW: Well, there is not currently a
17 lawsuit due to the –

18 CHAIR WEISSER: The agreement.

19 MS. MORROW: Well, we have an agreement that
20 we made with USEPA that we would implement improvements
21 to the Smog Check Program, and we have implemented all
22 those improvements. BAR has implemented all of the
23 improvements. The only one left is the low pressure
24 evap test and there have been numerous issues on it and
25 we have been, BAR and ARB has been diligently working

1 on these issues. It has taken some time. And this
2 false failure rate appears to be one of the last issues
3 that needs to be clarified before we can go ahead with
4 the program.

5 There's a California state law that states
6 that you cannot have more than a 5 percent false
7 failure rate, the Bureau, in any of its testing
8 programs, and since early data showed that it was in
9 excess of 5 percent, we needed to re-evaluate this to
10 ensure we met that requirement.

11 CHAIR WEISSER: Early data? I'm not sure
12 what that means.

13 MS. MORROW: In 2002 using a prototype tester
14 they did some analysis in El Monte, and so right now
15 our laboratory in El Monte is using some production
16 model testers with some additional improvements and we
17 think that it will bring the false failure rate to
18 below 5 percent.

19 CHAIR WEISSER: The evaporative test is, of
20 course, used in a handful of other states.

21 MS. MORROW: Yes, it has.

22 CHAIR WEISSER: And do they have false
23 failure rates exceeding acceptable levels?

24 MS. MORROW: You know, we've tried to get
25 that data and we haven't really heard anything. Those

1 programs are centralized. Also, if you look at those
2 programs, they don't put a lot of effort into testing
3 applicable cars. If it isn't easy to test, they won't
4 test it. They have, you know, the test is applicable
5 to 1995 and older vehicles, and just to give you an
6 example, and this was one of the variabilities we were
7 looking at is that in Kentucky out of those 1995 and
8 earlier vehicles, they were only testing 18 percent,
9 which means that out of those cars, 82 percent they
10 were saying they couldn't perform the test. In another
11 state it was 50 percent and then in Arizona it was up
12 to 60 percent, so there were some issues with the
13 tester. And like I said, in a centralized program it's
14 a little bit different than when it is a decentralized
15 program like in California.

16 CHAIR WEISSER: Dennis?

17 MEMBER DECOTA: On the evaluation that was
18 performed and the agreements between BAR and ARB and
19 the feds with regards to program changes, is that
20 agreement privy to the IMRC Committee?

21 MS. MORROW: That August 2000 letter, I think
22 Rocky could give you a copy. I think I have given him
23 the link so he can provide you with a copy of that.

24 MEMBER DECOTA: Were there any public
25 hearings on that?

1 MS. MORROW: You know, that was before my
2 time.

3 CHAIR WEISSER: I'm almost certain, Sylvia,
4 there weren't.

5 MS. MORROW: I think it was a ARB/BAR thing,
6 I think there was. I'm not sure, don't quote me.

7 MEMBER DECOTA: And the second part of my
8 question is on the draft report. Once it gets approved
9 by DCA legal, will it encompass the impact upon the
10 Smog Check industry with regards to the changes in the
11 program via Carl Moyer and that type of thing, the
12 amount of impact it's had on testing, the number of
13 tests and I guess the amount of emissions; i.e., that
14 were either decreased or increased because of that?

15 MS. MORROW: It will look at the emission
16 impact from those changes in legislation, but it did
17 not look at the number of cars or anything like that.

18 MEMBER DECOTA: So will it look at the
19 economic impact that it had on the Smog Check industry?

20 MS. MORROW: Well, I think the economic
21 impact was already in the initial report from any of
22 those recommendations.

23 MEMBER DECOTA: I'm talking about
24 specifically the Administration's waiver of vehicles
25 zero to six years and changing the change of ownership

1 | dates and those impacts.

2 | MS. MORROW: I don't think that we included
3 | the impact from going from a four-year exemption to a
4 | six-year exemption. I know that we did look at the
5 | impact in the original recommendation for clean
6 | screening on a partial basis. As far as the four-year
7 | and newer, in the report since we did recommend two-
8 | year and newer, we did discuss that impact in the
9 | report.

10 | MEMBER DECOTA: I think it's vital that the
11 | legislative bodies and we as ARB and BAR and everybody
12 | involved in this program realize the impact of that
13 | type of action by the Administration, whether it be
14 | positive or negative or what the true emission
15 | inventory's loss or gain will be and the economic
16 | impact. I hope that the agencies will take that into
17 | consideration. Thank you.

18 | MS. MORROW: I'm not sure, did the IMRC
19 | include that impact in their report?

20 | CHAIR WEISSER: The impact of the -- we, I
21 | believe, wrote a letter to the Administration
22 | associated with its proposals which highlighted our
23 | concerns in that regard. We did not perform any sort
24 | of macro or micro economic analysis, period.

25 | I remember your report, however, did discuss

1 at the same 50,000 foot level, you know, your
2 anticipated impacts of various recommendations
3 associated with the industry.

4 MS. MORROW: Yeah.

5 CHAIR WEISSER: I also don't think you did
6 any sort of macro or micro economic analysis or a
7 quantitative analysis.

8 MS. MORROW: I think we did in the ARB/BAR
9 report we did have a dollar figure on the impact to the
10 stations and the consumers for each of the
11 recommendations.

12 CHAIR WEISSER: And I just frankly don't
13 remember.

14 I have a question regarding the EMFAC model.

15 MS. MORROW: Okay.

16 CHAIR WEISSER: Is that model capable of
17 calculating the emissions benefit of, let's say, annual
18 testing for older vehicles and the annual testing of
19 high mileage vehicles? I mean, you have a number that
20 you anticipate getting in terms of emission reductions
21 in your report. Is that based on the EMFAC analysis or
22 is there something else that works in that regard?

23 MS. MORROW: I believe as far as the annual
24 inspection, that was based solely on the EMFAC model.
25 As far as the high mileage calculation, that was based

1 on test data of the before and then the repairs of a
2 high mileage taxi fleet.

3 CHAIR WEISSER: Okay. Dennis?

4 MEMBER DECOTA: Is there – I think that ARB
5 for most of its decision process uses the EMFAC
6 modeling in order to determine the amount of emission
7 reductions that a certain program would give. Also,
8 the machines have the capability of having evidence of
9 emission reductions that are quantifiable per unit per
10 facility. Is that information available, and if so,
11 how could the Committee see that?

12 MS. MORROW: Well, as far as that information
13 comes from the VID, and I'm not sure if Rocky gets that
14 data from BAR, but that comes from BAR. But you'll
15 have to remember, Dennis, that currently the fast pass
16 system is on, so you couldn't really fully evaluate the
17 emissions because as soon as it passes it passes the
18 car rather than if you have it over a standard period
19 of time for all cars, so all the records are not the
20 same.

21 CHAIR WEISSER: Though you would end up with
22 a, if you used that as a baseline and you say, okay,
23 we'll assume the worst, that it's just passing, you
24 would end up with an overly conservative estimate as to
25 the benefits of the program.

1 MS. MORROW: Yes, I would say so.

2 MEMBER DECOTA: No, I understand. And when
3 we went to the original enhanced program, part of the
4 rationale was to get quantifiable emission reductions
5 from each individual station doing the testing. This
6 industry representative has been involved in this for a
7 long time and has never seen any figures that relate to
8 actual hardcore non-modeled reductions. I would very
9 much like to, and I think the Committee would be
10 interested in seeing what the accountability is of hard
11 emission reductions versus the modeling. I mean,
12 that's the whole idea of my question here.

13 MS. MORROW: Well, and I think we did address
14 that in our 2004 report. We compared the output from
15 the bottle with roadside data, and as far as the
16 emission reductions associated with Smog Check, they
17 very closely correlated.

18 MEMBER DECOTA: Thank you.

19 CHAIR WEISSER: I think this is actually an
20 interesting area for us to address as part of that
21 analysis that we said we're going to do regarding our
22 suggestions on future program evaluations. That might
23 be one notion of calibrating or just comparing in
24 addition to the roadside tests. And we'll talk about
25 that a little longer.

1 I just wanted to take this opportunity to
2 thank Sylvia and Wayne for really good reports and
3 great patience with us and I very much appreciate your
4 participation here.

5 MS. MORROW: I just have one more, and I'm
6 sorry. Just to let you know, the post repair cut
7 points White papers are still under management review,
8 so that's my status on that.

9 CHAIR WEISSER: Thank you very much.

10 - oOo -

11 Ladies and gentlemen, we are at the point in
12 our meeting where we could begin to spend some time
13 reviewing certain aspects of the report topics that
14 we're working on. Rocky, I think the first one on our
15 list is the pre-conditioning. Do you want to walk us
16 into that one?

17 MR. CARLISLE: That's been an issue that
18 we've discussed for quite some time whether or not
19 vehicles being properly pre-conditioned when they come
20 into the shop, whether they, for example, if they sit
21 for several hours prior to testing, do they get too
22 cold and then when they're tested they have a false
23 failure and then subsequently they go to another
24 station and they pass, resulting in an unacceptable
25 ping-pong rate, but we don't have any hard data on that

1 | so what we wanted to do was do a survey, and we've come
2 | up with a survey.

3 | Dr. Williams and I are working on getting the
4 | data for the stations. What we want to do is take the
5 | high volume stations and we want to take 200 of each
6 | station type, 200 Gold Shield, 200 test-and-repair and
7 | 200 test-only stations, and then we have a series of
8 | questions we're going to ask them, including the last
9 | three are demographics.

10 | So, hopefully, like I say, we plan to start
11 | that when Jan comes back off her vacation around the
12 | 15th of next month and it'll take us probably a couple
13 | of months to compile all the data for that, and I'm
14 | hoping to work with Dennis and Bruce and possibly get
15 | some of Ms. Lamare's expertise on sampling in there.

16 | CHAIR WEISSER: Any comments? Jeffrey.

17 | MEMBER WILLIAMS: Looking at the questions, I
18 | was puzzled by what may just be as you run through is
19 | the test-only station how could they have done some
20 | pre-inspection repairs, that's question 12.

21 | CHAIR WEISSER: Jeffrey, turn your mic on.

22 | MEMBER WILLIAMS: Well, it is on.

23 | CHAIR WEISSER: Okay.

24 | MR. CARLISLE: Essentially, they can't do any
25 | pre-inspection repairs unless, for example, if they did

1 in fact have the pre-heat tube on a thermostatic air
2 cleaner, something like that, they would be allowed to
3 reconnect something minor, but it wouldn't be something
4 they would charge for.

5 MEMBER WILLIAMS: I wondered if we could ask
6 a further question, which is, do you know that the car
7 has failed previous tests? There's one about do you
8 take any time between that, but what if it comes in
9 cold, so to speak?

10 MR. CARLISLE: Um-hmm.

11 MEMBER WILLIAMS: I just wonder if there's
12 more attention to the proper conditioning if the client
13 says I went to some other place and I failed and I'm
14 sure my car's fine.

15 MR. CARLISLE: So you're suggesting we ask
16 the technician that.

17 MEMBER WILLIAMS: Yes.

18 MR. CARLISLE: Are you aware that the vehicle
19 previously failed?

20 MEMBER WILLIAMS: Or do you do anything
21 different if you know the vehicle has failed? There
22 might be more attention to --

23 MR. CARLISLE: Oh, I see what you're saying.
24 Okay.

25 CHAIR WEISSER: That's a good question

1 actually.

2 MR. CARLISLE: Yeah.

3 CHAIR WEISSER: Jude. I'm sorry, Jeffrey?

4 MEMBER WILLIAMS: That was it.

5 CHAIR WEISSER: Okay. Jude.

6 MEMBER LAMARE: Well, I guess we have some
7 opportunity to fine tune the questionnaire, but it
8 occurs to me that the question might be, do you
9 consistently use the same pre-conditioning procedure
10 with every vehicle that comes in, and if yes, you know,
11 which procedure is it, and if no, which procedure do
12 you use most.

13 CHAIR WEISSER: So you would modify question
14 number 9.

15 MEMBER LAMARE: Looking at question number 9,
16 I'm wondering if actually they vary their procedure and
17 you really want to know what variability there is.

18 MEMBER WILLIAMS: That's what I was trying to
19 get at, too.

20 MEMBER LAMARE: Okay. That's what I was
21 picking up from you.

22 CHAIR WEISSER: Those are good suggestions,
23 Rocky.

24 MR. CARLISLE: Yes.

25 CHAIR WEISSER: Dennis?

1 MEMBER DECOTA: I think it's important too
2 that they have the ability to answer the question as
3 what is their pre-conditioning procedure and then check
4 it back to the pass/failure issue so that we can make
5 later on a recommendation as what could be the best
6 procedure to implement in the industry.

7 MR. CARLISLE: We do have that in number 9.

8 MEMBER DECOTA: Okay, but do we allow them to
9 have any input as, you know, per se their own
10 procedures for doing pre-conditioning? We've given
11 them a list, a menu.

12 CHAIR WEISSER: Maybe open-ended.

13 MR. CARLISLE: Okay.

14 MEMBER DECOTA: Open-ended. That we may not
15 appreciate at this point in time, is all I'm saying.

16 MR. CARLISLE: So do you use some other type
17 of pre-conditioning procedure other than those listed?

18 MEMBER DECOTA: If so, what is it? Make it a
19 little bit of an essay question.

20 CHAIR WEISSER: Dennis hereby volunteers to
21 read the essays.

22 MEMBER DECOTA: Well, if we're going to take
23 the time let's do it right.

24 CHAIR WEISSER: I agree, Dennis, and these
25 are good, all three very constructive suggestions.

1 MR. CARLISLE: No, that's great.

2 CHAIR WEISSER: Are there any further

3 comments? Very good. Any sense of timing on this?

4 MR. CARLISLE: I think it's going to take a

5 good four to five weeks to collect the data. We

6 haven't really tried this out. Our telephone caller is

7 going to be Miss Janet Baker over there, and so we'll

8 find out when she comes back.

9 CHAIR WEISSER: Jude?

10 MEMBER LAMARE: Yeah, another way to approach

11 number 9 would be to say, now I'm going to read you

12 some pre-conditioning procedures and ask you whether

13 you ever use that procedure, and maybe it would go down

14 this list and then there would be a G, some other

15 procedure, and once you know which ones they use, then

16 you can say now procedure A, allowing the vehicle to

17 idle for three to five minutes, how often do you use

18 that procedure, you know, always, sometimes? And on G,

19 something else, what is that procedure that you use,

20 and that's the open-ended part.

21 CHAIR WEISSER: We have a comment from the

22 audience I'd like to recognize now, Mr. Ward.

23 MR. WARD: Thank you, Mr. Chairman. Randy

24 Ward representing the California Emissions Testing

25 Industries Association. I applaud the Committee for

1 taking this on because I think it's long overdue. A
2 couple of quick thoughts.

3 The number one problem that I think Dennis's
4 folks and my folks face are the failure at a test by
5 vehicle and then going down the street and passing,
6 which is substantially related to the pre-conditioning,
7 which I think you've heard many times which is serving
8 as motivation for this questionnaire, and I think Dr.
9 Williams spoke to that in raising the issue, and I
10 think it needs to be a specific question. I think the
11 question needs to relate to how frequent do you
12 encounter this kind of a problem or is this problem do
13 you consider it to be frequent or do you consider it to
14 be major or something like that.

15 Secondly, a thought, and I was looking at
16 question number 9 on the use of the pre-conditioning
17 procedure. You might ask the question, does your pre-
18 conditioning procedure change depending on age and
19 mileage of the vehicle? It's a pretty simple question
20 and I think most in the business recognize that what
21 we're talking about here substantially is the cat, and
22 anywhere between 70,000 and 100,000 miles that cat has
23 lost a substantial amount of efficiency that pre-
24 conditioning is going to effect, so the techs know
25 that, so I think that might be worthy of some at least

1 alteration into question 9 or a subset of question 9.

2 Thank you.

3 CHAIR WEISSER: That's a good suggestion.

4 Randy, before you leave, the suggestion that you ask
5 is, have you experienced failing a car and then only to
6 have it go down a few blocks away and have it pass,
7 haven't we heard enough of that to kind of say, well,
8 we know that it's happening a lot? I mean, I'm just
9 not sure we'd gain anything at least analytically from
10 that. We've gotten tons of anecdotal data. I can see
11 that comment is raising reaction, so Jude?

12 MR. WARD: I see where you're going and I
13 don't necessarily disagree. You've heard the anecdotal
14 information, the Bureau has heard the anecdotal
15 information, and as Mr. Carlisle can attest to, the
16 original process for pre-conditioning was altered
17 almost immediately because of problems, and the
18 original process, if that original process as outlined
19 by Mr. Carlisle at the onset on this program would have
20 been adhered to, we probably wouldn't be struggling
21 with this issue today. So the issue has been
22 substantially more anecdotal more with the Committee,
23 but it has certainly been analytical with the Bureau
24 and nothing has happened, and I think it may well be
25 that it's a consumer-related issue. But in any event,

1 thank you.

2 CHAIR WEISSER: Thank you. Jude?

3 MEMBER LAMARE: Well, the purpose of research
4 like this is to confirm or deny anecdotal evidence and
5 see how widespread it is. I think we found with our
6 consumer information survey that some of the anecdotes
7 that we heard repeatedly in Committee represented a
8 small part of the overall picture.

9 CHAIR WEISSER: And your belief, and I'm
10 realizing I may have made a mistake yet once again,
11 your belief is that by asking station owners that
12 you'll be getting a statistically valid compilation of
13 their impressions. I mean, that's the most you could
14 hope. You're not going to be actually getting
15 statistically valid data on how many times this happens
16 or anything like that. And I think that's worthwhile,
17 I don't have a problem with it.

18 Jeffrey.

19 MEMBER WILLIAMS: I wanted to ask Mr. Ward
20 what he thought of our idea of sampling the more active
21 stations. Are we going to regret that later? We're
22 not going to learn about pre-conditioning because
23 they're so active? Speak now or -- please.

24 MR. WARD: You know, you're a better judge of
25 what is going to be statistically accurate here than I

1 am, Dr. Williams. I'm kind of reacting just having
2 looked at the questionnaire this morning. You know, as
3 I was walking up to the podium it struck me that you
4 might want to have a range in terms of the number of
5 vehicles tested and see if there is any difference from
6 an analytical standpoint. Thank you.

7 CHAIR WEISSER: Dennis?

8 MEMBER DECOTA: I was thinking as we were
9 going through this, you know, one of the, I think the
10 most effective responses to any survey would be the
11 consumer. We as a Committee have the ability to do
12 surveys and phone conversations. Don't we have the
13 ability to go through DMV over a certain period of
14 time, say 30 days, throughout the counties and pick out
15 consumers that had a Smog Check and send the survey to
16 them directly from IMRC, returned to IMRC on these
17 issues? Wouldn't that be the real litmus test for
18 surveys?

19 I mean, you know, my industry has procedures
20 that are set by different companies that participate in
21 Smog Check. As a person taking the survey, am I'm
22 going to do what my boss instructs me to do or what I
23 really do? Does that make sense?

24 CHAIR WEISSER: It sure does to me. I think
25 you'd have actually a better shot at finding out what's

1 | happening that way. I don't know how easy it is to get
2 | that information, how expensive it is to conduct that
3 | sort of survey. Rocky?

4 | MR. CARLISLE: My concern fundamentally with
5 | that is when you get to the consumer level, if for
6 | example they fail because the monitors weren't ready,
7 | that's technically not a pre-conditioning issue, that
8 | was because somebody disconnected the battery cable
9 | because the mill light was on, for example. There's a
10 | lot of reasons the vehicle could get kicked out of the
11 | test that the consumer, the only thing they know is
12 | that they were rejected and now they have to go back
13 | for another test, so I don't know how valid that would
14 | be. I'm a little concerned about that, to be honest,
15 | from the consumer's perspective.

16 | CHAIR WEISSER: Dennis?

17 | MEMBER DECOTA: Yeah, I can't help but feel
18 | that your concern has legitimacy, but also the issue is
19 | what do we want the program to look like to the
20 | consumer? The consumer wants a program that is user
21 | friendly. If there's problems, don't we want to know
22 | it and why those problems are being created? And what
23 | is the harm in going to the people that pay for the
24 | program and asking them their experience? I don't see
25 | it, I'm sorry.

1 MR. CARLISLE: I think that's a different
2 survey. I think that's got validity, but I think it's
3 a different survey than pre-conditioning.

4 CHAIR WEISSER: My suggestion is that I think
5 in the next few months we're going to find a desire and
6 opportunity for many things to investigate that would
7 benefit from consumer survey, and it might be best for
8 us to look at that in the context of the item of, you
9 know, the standardized methodology to check for Smog
10 Check Program evaluation. We might want to create kind
11 of an idea box where we put in suggestions that might
12 merit falling into a consumer survey.

13 MEMBER DECOTA: I absolutely agree, yeah.

14 CHAIR WEISSER: So I think this might be a
15 good idea. What I might suggest, Dennis, is that you
16 try to write it up a little bit and flush it out and
17 send it to Rocky and then you can send it on to the
18 rest of us, so we pin this down.

19 We have a couple of comments or questions
20 from the audience, and we'll start with Bud, come on
21 up, and then Chris.

22 MR. RICE: Good morning, Bud Rice with
23 Quality Tune-up Shops. Couple of just fast comments.

24 First one in regards to pre-conditioning, I
25 think it kind of goes back again to expectations, and I

1 think Mr. Ward said to you as well, Rocky, that from a
2 shop's perspective, and I'm going to speak exclusively
3 from a shop's perspective, what is it we're supposed to
4 do, okay?

5 Because when you really think about it, with
6 Mr. Williams' question, if somebody comes in and says,
7 hey, I failed down the street, I want to pay for
8 another test and have you guys test it because I just
9 want to double check on those guys, they are going to
10 be on a different kind of alert. Believe me, they are
11 going to be on a different kind of alert. Probably do
12 a longer pre-conditioning sequence, you know, in an
13 attempt to do a couple things; provide service to that
14 customer because the guy had a problem, see if they
15 can't get this guy through the system and through the
16 program. So again, what are the expectations that
17 you're asking shops to do?

18 Because really when you think about it, the
19 cleanest program would have been test them as they
20 roll, meaning you don't do anything to the car, you
21 don't mess with the car, you don't do anything with the
22 car. It rolls, gets tested, and whatever happens,
23 happens. But we went away from that in a lot of
24 different areas, and so as soon as you break off from
25 that, now you have a ton of different variables that

1 now enter into things, including pre-conditioning.

2 Oh, then the other one was, again Mr.

3 Williams, your question is, does it make sense to go to

4 the busy shops? My suggestion would be if you're going

5 to go duck hunting, go where the ducks are, and if

6 those guys are doing a bunch of tests, they have a lot

7 of information both in terms of what they see,

8 spectrum's wider, and what kinds of actions do they

9 take to service that wider spectrum. So I think,

10 again, if you're going to go duck hunting, go where the

11 ducks are, that's where you're going to get the best

12 data, I think.

13 Thank you everybody.

14 CHAIR WEISSER: Thank you, Bud. Chris,

15 please.

16 MR. ERVINE: Chris Ervine with STARS,

17 Coalition of State Test-and-repair Stations. I have a

18 couple of concerns with the survey here.

19 First off is ambient temperature. If a car

20 sits for five minutes and it's 35 degrees outside, that

21 car has cooled off a lot more than a car that's sat for

22 five minutes at 110 degrees outside. Also, the

23 vehicles that sat, say, for even a half an hour at 35

24 degrees is going to get a lot longer pre-conditioning

25 than a vehicle that's sat for a half an hour at 110

1 degrees, so we have a problem here. You take this
2 survey today as we're just coming out of the cold
3 weather and take it again in August, I think you're
4 going to have two different surveys.

5 Also, the current program that we have, if a
6 vehicle fails a two-speed idle test, it is directed by
7 the smog machine, or the technician is directed by the
8 smog machine to pre-condition that vehicle at high idle
9 for three minutes and then re-test the vehicle.
10 There's a little bit of an inequity here, I feel,
11 between the loaded mode testing and the two-speed idle
12 test.

13 My feeling is that these vehicles should be
14 run on a dyno for at say between, you know, a much
15 wider range than the two miles an hour that's allowed,
16 but say between 25 and 35 miles an hour for at least a
17 minute or a minute and a half and then brought down to
18 idle and then brought back up and tested there. That
19 way, the catalytic converters are brought up to
20 temperature and are working, and if they're all tested
21 the same way, we're going to get the same kind of
22 numbers. And pre-conditioning the car for, say, six
23 minutes at 3,000 rpm prior to immediately testing it
24 might be -- might change the numbers if you have to go
25 from a specific mile per hour and then bring it back

1 down.

2 I think that's it.

3 CHAIR WEISSER: Well, good comments, Chris.

4 I guess they recognize that the survey itself is not

5 going to be the basis for a recommendation in this

6 regard. What we're trying to do is what are the

7 practices out there? The comments that you made

8 regarding the climate as well as the time of year are

9 things I think we need to step back and think about in

10 terms of the survey, and I don't have any great ideas

11 off the bat, but I'm sure the subcommittee will refine,

12 but those are good comments, Chris.

13 Anybody else have a question or comment to

14 Chris? Thank you. We'll go to the back and then back

15 up to the front.

16 MR. CHERRY: Good morning, I'm Mike Cherry,

17 I'm a test-only operator and, yes, there is a problem

18 with the pre-conditioning, some things that maybe you

19 want to keep in mind as to what you're really trying to

20 accomplish.

21 I would think that we want to be measuring

22 the vehicle pretty close to trying to simulate it as

23 it's been driven down the highway. What happens to us

24 a lot of times is we'll fail a vehicle and it'll go

25 down the street and then it'll come back. Our

1 observation is that the vehicle has probably been
2 overly pre-conditioned, so it's been overly warmed up
3 where it's actually the catalytic converter has
4 actually lit off more than it would actually be if it
5 were being driven down the highway.

6 So if you're going to come up with some kind
7 of a method to pre-condition the vehicle, I think you
8 need to compare it to actual driving, and I would think
9 the roadside would give you some pretty valid data.
10 It's my understanding that the vehicle's tested
11 immediately as it's taken in, is that right, so it's as
12 driven, and it would seem to me that that would be
13 good.

14 We see vehicles that fail and then they get
15 approved for the CAP program, and then subsequently
16 they go to a repair shop and the guy that's hoping to
17 repair their car and make money on it will barely,
18 barely pass.

19 Well, to my way of thinking, that car's still
20 broken and it really hasn't been repaired and it's just
21 barely passing even if it's been maybe overly
22 conditioned, so there are some issues out there and it
23 causes the operator to have egg on their face I think
24 both ways. Like Buddy said, the second guy, he has a
25 little more at stake when he goes to test the car

1 because all of a sudden he's in charge of making that
2 car pass. Thank you.

3 CHAIR WEISSER: Hang on for a second. Member
4 DeCota has a question of you.

5 MEMBER DECOTA: Mike, as far as the probably
6 having a great volume in testing at your facilities,
7 what do you think on a hundred tests would be the
8 percentage of cars that you would see back maybe as a
9 consumer complaint for this type of issue?

10 MR. CHERRY: It's not a high percentage, but
11 it's enough to –

12 MEMBER DECOTA: Is it two out of a hundred?

13 MR. CHERRY: I don't even think it's that
14 high.

15 MEMBER DECOTA: Really?

16 MR. CHERRY: We don't always get that
17 feedback either.

18 CHAIR WEISSER: But when it occurs –

19 MR. CHERRY: They may complain to somebody
20 else instead of me. They may call the Bureau and go,
21 hey, that guy failed my car and I might never find out
22 about it.

23 MEMBER DECOTA: Okay. That's fair. I was
24 just trying to get a feel for what the –

25 MR. CHERRY: Yeah. Good idea.

1 MEMBER DECOTA: Okay.

2 MR. CHERRY: Yeah, we do have a high

3 throughput and cars rarely sit around too long, so

4 they're in and they're out and we don't perform any

5 particular pre-conditioning. But there are several

6 groups of vehicles, for instance, the mid-nineties

7 Chevrolet pickups, a lot of them will fail and they

8 probably never should have been certified, in all

9 honesty, and I think your roadside probably points that

10 out.

11 But anyway, we'll give that car a second

12 chance if it's borderline, we'll immediately re-run a

13 test just because we know that that guy's probably

14 going to go down the street and get a pass and then -

15 MEMBER DECOTA: You got a problem.

16 CHAIR WEISSER: Thank you. Yes, sir.

17 MR. POLLINO: Good morning. My name's Andy

18 Pollino with the Automotive Service Councils of

19 California. Just regarding Mr. DeCota's suggestion

20 about surveying some of the consumers also, it just

21 occurs to me that with the information that's in the

22 VID, you can pick out vehicles that have failed and

23 then in a short period of time, whether it's a couple

24 of days or a couple of hours, a vehicle gets passed and

25 had no repair data entered, and if you focus on those

1 vehicles and survey both shops and the consumer, I
2 think you can get a better picture of what's happening
3 on those cars where there's apparently no repairs.

4 MEMBER DECOTA: Which I believe in the last
5 report was somewhere close to 30 percent.

6 CHAIR WEISSER: What's 30 percent, Dennis?

7 MEMBER DECOTA: The cars that fail, initial
8 failure, and then come back and pass at a second test,
9 that there's about a 30 percent drop-off where there's
10 no accountability between the first test, the repair
11 and a re-test.

12 MR. POLLINO: I don't know. I haven't
13 studied that myself.

14 MEMBER DECOTA: Am I right or wrong, Rocky,
15 you know?

16 MR. CARLISLE: I'm not sure of it, to be
17 honest with you.

18 CHAIR WEISSER: There's your answer.

19 MEMBER LAMARE: Well, Dennis, could you be
20 more explicit when you say what study are you referring
21 to, what data?

22 MEMBER DECOTA: It was data either given by,
23 I believe ARB or BAR, okay, on pass/failure ratios
24 that, Jeffrey, I don't know if it was in your report, I
25 forget, but I'll find it for you. But out of a

1 percentage of cars that failed their initial test that
2 pass on their second test, there was at least a 30
3 percent of those vehicles were undocumented repairs.
4 In other words, they did not go to a licensed ARD for a
5 smog-related repair to that vehicle before being re-
6 tested. Does that got it?

7 MEMBER LAMARE: Yeah, I just want to know
8 where to go look for it.

9 MEMBER DECOTA: Okay.

10 CHAIR WEISSER: Okay. Len?

11 MR. TRIMLETT: Len Trimlett, smogrfg. Again,
12 Victor, trust me. I was thinking about this while you
13 were discussing it here. What we're saying is in the
14 survey, what is the procedure that each station goes
15 through and how does that procedure change. Let's
16 think about it a little bit further. What's the real
17 issue?

18 You're saying, does that cat when it's heated
19 up bring the emissions down to where it's going to
20 pass? Okay. Now let's back off and change the
21 question. What is the variation in emissions for a
22 vehicle if you go from a, take the vehicle cold right
23 out of the parking lot, test it. Now let it sit for a
24 couple minutes and then test it again, then let it go
25 through a complete cycle of five minutes, ten minutes,

1 whatever you want for warming up and what is the
2 result?

3 It seems to me that what you're leading to
4 here, if you really want to answer the question what
5 does pre-conditioning have effect on the vehicle,
6 you're really saying, what does the change in
7 temperature of that cat have on whether the vehicle is
8 going to pass or fail, so you're really looking at a
9 catalytic converter versus the hydrocarbon, carbon
10 monoxide and NOX levels as a function of how long you
11 pre-condition it.

12 Seems to me that that would be leading to a
13 separate study that comes up and either BAR or CARB
14 would be looking at how those vehicles actually perform
15 under these pre-conditioning things as a function of
16 the cat. So I think you really want to lead this into
17 a study of cat temperature versus each of these pre-
18 conditioning modes. Thank you.

19 CHAIR WEISSER: Thank you, Len.

20 Ladies and gentlemen, I think that will
21 conclude the discussion on pre-conditioning for today.
22 There has been a suggestion made that we take a ten-
23 minute break and then return. We will work after we
24 return till the next logical break for lunch, and then
25 we'll take a short lunch break. So if there's no

1 objection, we'll take a ten-minute break for now. We
2 will start, believe me, on time, so we'll see everyone
3 in ten minutes, we'll adjourn for ten minutes.

4 (Off the record.)

5 - oOo -

6 CHAIR WEISSER: Okay, we'll come back into
7 order. Is the tape on? Very good. Cell phones are
8 off, I hope.

9 Okay, I want to note for the record Paul
10 Arney has survived his travel challenges and has
11 arrived. Welcome, Paul. We're talking about going
12 into report topics, and what I think I will do is just
13 march down these to see if there's any additional new
14 information until we arrive at one of the items that
15 will necessitate further discussion.

16 Comparison of test-only, test-and-repair and
17 Gold Shield performance. Jeffrey, anything new you'd
18 like to share?

19 MEMBER WILLIAMS: Nothing new.

20 CHAIR WEISSER: Nothing new.

21 Consumer information study. Jude, is there
22 anything you'd like to share?

23 MEMBER LAMARE: No, thank you.

24 CHAIR WEISSER: Determine causes for program
25 avoidance. How is that subcommittee going? Rocky.

1 MR. CARLISLE: Looks like both members are
2 gone. We're still looking at that. You know, we may
3 be able to use some of the DMV data we have, and my
4 thought was, I haven't talked to the subcommittee about
5 it but when I got the data I was thinking about it, to
6 compare the DMV data and see which one of those cars
7 has not received a Smog Check in the last 24 months,
8 because that would indicate, you know, avoidance of the
9 program, because the DMV data we've got is actually
10 every registered vehicle totally separate of the Smog
11 Check Program.

12 CHAIR WEISSER: Okay. I would really
13 appreciate a report at our next meeting from the
14 subcommittee if you could make sure the folks you get
15 together with them and start outlining a study
16 methodology.

17 MR. CARLISLE: You bet.

18 CHAIR WEISSER: Post repair Smog Check cut
19 points.

20 MR. CARLISLE: That is one that Sylvia had
21 mentioned they're still reviewing the report. I'm not
22 sure, I'm assuming that must be a report from a
23 contractor that they've received, but I don't know that
24 for a fact. That was the one that we discussed last
25 summer and was going to be delivered to us by the end

1 of summer. It's been postponed, but I understand that
2 they are moving forward with that, and so as soon as we
3 get that report then we can give us an opportunity to
4 review that.

5 CHAIR WEISSER: Very good. And Sylvia, any
6 suggestions as to timing when we'll receive that
7 report, remind me again, the post repair Smog Check cut
8 points.

9 MS. MORROW: Are you talking about the White
10 paper that I had discussed earlier?

11 CHAIR WEISSER: Yes.

12 MS. MORROW: You know, like I said, it's
13 under management review and it has been for some time.
14 I have no idea.

15 CHAIR WEISSER: Thank you. I'm going to skip
16 (f) for a moment and go to (g), standardized
17 methodology for Smog Check Program evaluation, and
18 perhaps to kick this off I'd like to read to the
19 members and the public an email I received from one of
20 our interested parties, Don Steadman, and he wrote this
21 to Rocky. Rocky shared it with me, I'm not sure if it
22 went to the full Committee. Let me read it because I
23 think it's some input for that report.

24 "In case it is any
25 help, I have one comment on your

1 agenda, namely concerning
2 standardized method for I&M program
3 evaluation. An I&M program is
4 supposed to reduce on-road
5 emissions. On-road emissions is
6 what CARB's remote sensors measure.
7 They have 15 of them, I believe.
8 To the extent they are using this
9 investment, then the results should
10 be used to evaluate your I&M
11 program. Your on-road emissions
12 results get closer to I&M
13 'evaluation' than any number of
14 statistical and mathematical
15 evaluations of failure rate and
16 repair cost and waiver rates and
17 all the other parameters which go
18 into conventional I&M evaluation.
19 On-road data can be mined to
20 determine if there is any
21 difference in in-road emissions
22 between vehicles of the same age
23 and make, if you wish, which are
24 tested at the various sorts of I&M
25 stations in California."

1 He also says that,
2 "I would like to take this
3 opportunity to invite any
4 interested members of your
5 Committee to observe on-road
6 emissions in real time at top of
7 the ramp from LaBrea southbound to
8 I-10 eastbound the week of October
9 17th through 21st where
10 measurements will be undertaken for
11 the CRCE-23 program." God knows
12 what that is.
13 He did not say 'God knows what that is,' I
14 said that.
15 "The instrument will
16 be operating from six a.m. to five
17 p.m. each day," blah-blah-blah-
18 blah.
19 So it's an input that I'll give to -
20 MEMBER LAMARE: I have a copy, who needs it?
21 CHAIR WEISSER: Anybody want a copy of this?
22 Thanks. Any comments on any of that? Okay.
23 Lastly is of the report topics, (f),
24 organizational placement of Smog Check. During the
25 last month following our discussion on the work in

1 progress, the draft – which is why folks in the
2 audience don't have copies of it, it is a work in
3 progress – we made substantial changes in terms of kind
4 of the organization of the report and modest, I'd
5 characterize them, modifications in terms of the
6 content and wording. And by we, I mean principally
7 Rocky Carlisle, myself, John Hisserich came forward
8 with some suggestions, and as did Gideon Kracov, who
9 I'm sorry who's not here today, he independently did I
10 think a lot of good thinking about how to strengthen
11 the report. But any blame associated to the nature of
12 this draft should be squarely aimed at me and not
13 Rocky, John my partner on this, or Gideon.

14 What we've tried to do is organize it into
15 basically four sections: a very brief discussion of
16 the issue, a recommendation, a more lengthy background
17 and discussion section, and then a listing of the
18 options that we considered.

19 I still have a few suggestions which I'll
20 make as we go through this, but before we do anything
21 further, it is particularly important on this item that
22 each of you have had an adequate period of time to
23 review this before we discuss it, so if any Committee
24 member hasn't had a chance to read it thoroughly, I'm
25 perfectly willing to take a five-minute deep breath and

1 allow everyone to review it carefully before we get
2 into further discussion.

3 Okay, so we're going to take a break. We're
4 going to remain in session while members who have not
5 had a chance to carefully review this have such a
6 chance. So please read away.

7 (Five minute pause on the record)

8 CHAIR WEISSER: Okay, have Committee members
9 had an opportunity to complete their review? Very
10 good. So what I'd like to do now is to have a
11 discussion both covering the more global aspects of
12 this issue paper as well as kind of any suggestions
13 that might make sense editorially. I have a couple of
14 those that I'll put out just up front and they're
15 editorial in nature. And Rocky, you might want to get
16 your copy out and tell us if you think what you're
17 about to hear strengthens or confuses things.

18 We have in our background and discussion
19 section a paragraph dealing with essentially the – does
20 everybody in the audience understand what we're talking
21 about at all? This is the issue paper that we
22 indicated we would develop. We had developed an early
23 draft but we wanted to develop a final draft to send
24 out associated with the Lieber bill's recommendation to
25 move elements of the Smog Check Program from the BAR

1 over to the Air Resources Board, and this was used by
2 the Committee in draft form as kind of background to
3 the decision that we took to support the Lieber bill at
4 our last meeting, and what we're doing is just going to
5 go into the guts of the memo and discuss it at more
6 length.

7 At the very top of the second page there's a
8 statement that starts off with, "Several times over the
9 life of the Smog Check Program," and I just think from
10 an editorial standpoint that you might want to – we
11 should move that paragraph to a new paragraph starting
12 after the line that says, "BAR's authority over the
13 Smog Check Program is an anomaly to the overall role
14 the ARB has in terms of state environmental regulations
15 for mobile sources." I just think it fits there. It
16 breaks up a section where we're talking about the
17 history of both the formation of BAR, the formation of
18 the Smog Check Program and the formation of ARB. That
19 would be a suggestion I'd make, Rocky.

20 Towards the bottom of that page there's a
21 statement, and I think Rocky, you added this after I
22 sent you a draft that says, "ARB has successfully
23 addressed consumer protection in many of its emission
24 reductions program," and a couple of things there.
25 First, there's an apostrophe after 'its' that doesn't

1 belong, but I'm wondering if we might not want to
2 identify a couple of examples where in fact ARB has had
3 to deal with, you know, consumer reaction.

4 Now, I want to make sure everyone in the
5 audience recognizes that the recommendation that we are
6 making would not change BAR's role in terms of
7 implementation of the program. However, it would
8 provide that ARB essentially become the policy maker of
9 the program, and then the implementation of those
10 policies would remain the responsibility of BAR.

11 Is Sylvia still here? Fantastic.

12 Sylvia, could you step up to the microphone,
13 because I want to ask you for perhaps some examples of
14 ARB's interaction with consumers. I know you've been
15 involved in issues associated with consumer products.

16 MS. MORROW: Well, I mean, as far as ARB has
17 dealt with consumers per se, you know, we have quite a
18 long public process and usually things are vetted
19 before they make it to the board.

20 But I mean, not exactly consumers but we have
21 dealt with like heavy diesel trucks, the trucking
22 industry and various individual industries in which we
23 have had regulations that individuals may not have been
24 happy about and ARB has worked with them to resolve
25 those issues.

1 A recent one was electrification of
2 forklifts. That was in our 2003 statewide strategy.
3 ARB staff worked with the industry and developed a
4 compromise and it went forward, or it is in the process
5 of going forward, I'm not sure if that one actually has
6 gone through the process yet.

7 CHAIR WEISSER: But you've also had a lot of
8 work associated with, you know, consumer products is
9 the ones that stick in my mind.

10 MS. MORROW: Yeah.

11 CHAIR WEISSER: I mean, I know at ARB when
12 they're considering whether to ban the use of certain
13 evaporative agents in underarm deodorant and perfume,
14 gave great thought to the notion of, hmm, how is this
15 going to impact the average consumer.

16 MS. MORROW: Well, and with consumer
17 products, you know, ARB, and it says it in state law,
18 cannot actually ban a certain type of product.

19 CHAIR WEISSER: Right.

20 MS. MORROW: And so, you know, there are
21 requirements out there to protect the consumer so that
22 their option of a spray underarm is not taken away from
23 them.

24 CHAIR WEISSER: Thank you for that
25 illumination.

1 Once more, pure editorial, Rocky, on page 3,
2 item number 1, the example cited of 2004 program
3 review, I would insert the words 'Smog Check' before
4 'program.' And the same thing in the first paragraph
5 I'd insert 'Smog Check.'

6 Rocky, on page 5, this is purely editorial,
7 the next-to-last paragraph that starts with,
8 "Although," you have another 'its' with an apostrophe.

9 Isn't this exciting?

10 And that's all the suggestions that I have,
11 and I will now ask Ms. Lamare to share her suggestions.

12 MEMBER LAMARE: Well, a couple of thoughts
13 that I'm wondering if other Committee members might
14 have some feedback on whether we should include some
15 other considerations in this particular report.

16 One consideration would be what other states
17 are doing. If I understand correctly from the Sierra
18 Research report that we were given to review in the
19 last couple of weeks, it indicates how the Smog Check
20 Program is implemented in each state, and as I reviewed
21 that I saw only one state where a consumer protection
22 agency is implementing the Smog Check Program. Many
23 states are implementing the Smog Check Program through
24 an environmental health or an environmental protection
25 agency, and so I think it's consistent that our

1 recommendation, to have policy and budget authority in
2 the ARB is consistent with that.

3 CHAIR WEISSER: So we might want to add a
4 line. Where do you think we should put that?

5 MEMBER LAMARE: I think we should add a
6 section before we talk about alternatives that's
7 called, perhaps, other considerations.

8 And the two other considerations that I would
9 include if the other members of this Committee concur
10 are that other states do not use consumer protection
11 agencies to implement Smog Check and that there are
12 many states that do use an environmental agency.

13 And secondly, that the California Air
14 Resources Board has a public process, a regulatory
15 process, for full public participation, and also has
16 policies regarding environmental justice that it
17 applies to its work that could also be applied to the
18 Smog Check Program and benefit the state.

19 CHAIR WEISSER: I think both of those are
20 very good suggestions. Does anyone on the Committee
21 disagree? Anyone disagree? Okay. So we can do that,
22 Jude, and we'll try to fashion a paragraph and ask you
23 to fashion it for us.

24 MEMBER LAMARE: Okay.

25 CHAIR WEISSER: Are there other comments?

1 Jeffrey.

2 MEMBER WILLIAMS: I have one, and I'm not
3 quite sure how this cuts to an editorial issue or to
4 the recommendation.

5 Several of the examples we give where we're
6 saying BAR hasn't done quite as well as ARB might have
7 done have to do with being slow at something. I think
8 we should be more explicit that this, well, that ARB
9 has a culture to be fast, because that's the argument,
10 and I put this in a context, well, we're all slow at
11 everything. As a faculty member at UC Davis and the
12 College of Agriculture that had to put in a report in
13 December and, you know, you must do that, I'm proud to
14 say I was the 258th of 258 faculty that put in that
15 report and I haven't been struck by lightning or
16 anything like that, and so that 'must' really didn't
17 have anything to do with it.

18 CHAIR WEISSER: That's just a -

19 MEMBER WILLIAMS: I just wonder if part of
20 the issue here is there's no sense of urgency and how
21 do we cure that anyway.

22 CHAIR WEISSER: The reflection of you being
23 258th is of great interest. That's more a comment on
24 academia perhaps than -

25 MEMBER WILLIAMS: Or my love of paperwork.

1 CHAIR WEISSER: You know, I think each and
2 every one of the recommendations that are associated
3 with slowness in the decision making process on BAR
4 does tie it back into the fact that they can more
5 afford to be slow than ARB because they don't have
6 direct responsibility for achieving air quality goals.
7 You know, it's no skin off of their nose if it's six
8 months or a year late, whereas ARB has SIP commitments
9 it has to meet and a whole variety of other issues tied
10 to the environment that place a direct incentive on
11 them to have fast decision making. And I think that's
12 covered in each one, so I guess I take issue with that.

13 Now, I'm not going to go out and say ARB
14 moves at the speed of lightening, and in fact, that's a
15 good thing that they take a measured approach toward
16 making decisions, important decisions. But I do think
17 that the responsibility that they're charged with will
18 inexorably lead to leaning towards implementation of
19 program changes that will increase emission reductions
20 from mobile sources more so than BAR.

21 MEMBER WILLIAMS: I agree with you, I just
22 think you want to make that argument even more
23 explicit, that it's there but a couple sentences more.

24 CHAIR WEISSER: Do you have any suggestions
25 as to what or where?

1 MEMBER WILLIAMS: Well, all right, I figured
2 you'd say that. I'll work on that.

3 CHAIR WEISSER: Thank you. The great
4 delegator. Jude.

5 MEMBER LAMARE: Thank you. I just wanted to
6 agree with Jeffrey. And I think what Jeffrey has said
7 is that we're on to something here, but we really
8 haven't nailed the cure, and that suggests that the
9 bill might benefit from an amendment that actually sets
10 review time lines for the Air Resources Board to visit
11 the Smog Check Program on a regular basis, that it
12 comes before them.

13 As you know, the way the program works now it
14 does not go to the Air Resources Board for any program
15 review. We've said policy and budgetary authority are
16 appropriately at the ARB, but also in line with my
17 thought that the reason I like that is the ARB has a
18 public process and a regulatory process, but just
19 shifting the policy and budgetary authority to ARB
20 doesn't necessarily address the issue that responsible
21 policy makers would review the Smog Check Program and
22 these various elements that we see and that we're
23 continually coming back to review, like, well, where's
24 remote sensing, well, where's evaporative testing, the
25 list kind of goes on and on.

1 What we want is for the regulatory body
2 that's responsible for air quality control in our state
3 to be examining the Smog Check Program on a regular
4 basis in terms of how it's performing as an air quality
5 improvement measure. So I think Jeffrey's onto
6 something here that we need to ponder and that should
7 be part of our report in the sense that if we're
8 supporting the legislation we should be feeding back to
9 the sponsors that they might want to tighten this up a
10 little bit more in the bill.

11 CHAIR WEISSER: Sylvia, get your roller
12 skates on again. It's my understanding that ARB goes
13 through a process to develop an annual regulatory
14 program cycle where they come forward with their
15 estimated calendar of upcoming regulatory events at
16 least once a year, and that the Air Resources Board
17 itself gets involved in those decisions that are, you
18 know, result in the formation of regulations but also
19 they are looped into the process on many things that
20 would fall under the rubric of guidelines. And you
21 have, you know, a pretty active board in all the
22 programs that ARB is involved in.

23 I'm not sure that we are, or the Legislature
24 for that matter is -- I guess I'm not sure that it's
25 wise to try to embed in statute a particular series of

1 standards for a program review other than to establish
2 the correct superstructure for that review to take
3 place. So I think if you in fact move the policy of
4 the program over to ARB, that you get ARB – B being the
5 operative word, the Board – involved in the major
6 decisions associated with policy direction for the
7 program. Is that what you're –

8 MEMBER LAMARE: I'd just like to hear what
9 people, if anybody has any opinion.

10 MS. MORROW: Do you still need me, Vic?

11 CHAIR WEISSER: Yeah.

12 MS. MORROW: I don't have anything to comment
13 on that. I'm not exactly sure if we actually have, you
14 know, a pretty prescript board, a yearly calendar, I'm
15 not exactly sure that that's – because we do add things
16 to the Board, we add different items to it throughout
17 the year that may not be thought of at the beginning of
18 the year.

19 CHAIR WEISSER: Okay. Robert?

20 MEMBER PEARMAN: Could someone perhaps
21 explain to me the way it stands now if you put IMRC
22 aside how the BAR approval process of regulation change
23 and other change in the program is not open to the
24 public versus how it is under ARB under the current
25 structure that is supposedly open and public to a

1 greater extent?

2 CHAIR WEISSER: Do I tread? Okay. My
3 understanding is that ARB as a regulatory agency must
4 hold public meetings to receive public input prior to
5 its adoption of any rule or regulation to implement its
6 responsibilities given to it under statute. The Air
7 Resources Board meets once a month in usually two-day
8 marathon sessions.

9 The ARB, the Board is headed by a full-time
10 Board member and the rest of the Board members are
11 part-time. The staff of the Air Resources Board
12 continually seems to be on the road doing public
13 participation hearings.

14 MEMBER LAMARE: Workshops.

15 CHAIR WEISSER: Workshops and the like. They
16 have an extensive, well-functioning system of public
17 participation. They're in a board structure, which
18 tends to move itself toward a higher degree of public
19 participation.

20 On the other hand, BAR is set up in a more
21 traditional executive branch structure where they're
22 headed by a chief of staff. In this case the title of
23 that position is chief, BAR. And the decision making
24 within BAR is done in a much more -- I should say can be
25 done in a much more hierarchical fashion, including or

1 not including public participation. BAR has employed a
2 variety of techniques to solicit public input and we've
3 heard a lot about that at least during my tenure on
4 this Committee. They have gone far beyond what they
5 used to go through in order to solicit public input on
6 issues, including the appointment of an ombudsman,
7 including the advisory committee that they have set up,
8 and in fact including this IMRC. They've used the IMRC
9 to vet issues such as the formerly and apparently once
10 again joint BAR/ARB report.

11 So BAR, like many executive branch agencies
12 without a board, does use different tools to generate
13 public involvement in the program. It certainly is not
14 as structured or formal as the ARB situation.

15 Is that responsive to your inquiry?

16 Jude?

17 MEMBER LAMARE: I just want to add here that
18 if you compare and contrast the Bureau process and the
19 ARB process, one of the things that I notice is that
20 the environmental groups and the air quality advocates
21 and the clean air advocates that are out there are
22 regular participants in the ARB process, they're
23 present, they watch what ARB does. They rarely come
24 here and watch us and participate with us, and I am not
25 aware of them ever participating in any Bureau process.

1 The Bureau process is a process where the
2 industry consults with the Bureau, but the public and
3 the air quality advocates are not necessarily engaged.
4 Obviously, my interest is in getting these issues to a
5 venue where the air quality community, the folks who
6 are knowledgeable and expert about air quality and who
7 advocate for improvements in air quality are able to
8 participate in a process that they're familiar with,
9 with people that understand the air quality stake
10 that's involved in the decisions being made on the Smog
11 Check Program.

12 CHAIR WEISSER: Thank you. Wayne.

13 MR. RAMOS: Thank you, Wayne Ramos, Bureau of
14 Automotive Repair. I just want to remind the Committee
15 that any time we establish regulation we do go through
16 the administrative – or the OAL process in which the
17 public is invited to comment on any regulations that
18 are established.

19 And also a reminder that when we do implement
20 any program elements we do establish pilot programs
21 that does as Judith mentioned, it involves industry
22 being involved in those pilot programs to establish
23 those procedures as well, so that should be remembered.

24 CHAIR WEISSER: Good point. All that's not
25 to say that, even if the Lieber bill becomes law, that

1 | there might not be a benefit from BAR having a board
2 | and having a process that does more formally include
3 | and require public participation in the input phases to
4 | decision making, and I know that that issue came up in
5 | the past, I think during your most recent program
6 | review it certainly was raised. It's something that,
7 | you know, we've heard from a lot of the folks that come
8 | to these meetings as to some extent a frustration. And
9 | in fact, I think that's why a lot of people who come to
10 | these meetings come to these meetings, because there is
11 | no regular formal public board that they can talk to,
12 | that they can complain to, other than the IMRC, and we
13 | have no authority, merely advisory.

14 | Dennis?

15 | MEMBER DECOTA: I think that your comments,
16 | Mr. Chairman, are basically right on. Are we going to
17 | jump from the so-called frying pan into the fryer as
18 | far as industry is concerned? One of the problems, I
19 | think, that has exacerbated the issues and slowed down
20 | the ability of industry to work in partnership in
21 | emission reductions has been the lack of interest of
22 | concerns and having a public voice to vent those in in
23 | order to take and make the program better. I think
24 | it's a situation that, you know, whether it be BAR or
25 | ARB, without some type of committee such as this for

1 issues to be tabled and discussed, I have to go back
2 to, you know, I have to go back to things like MTBE in
3 gasoline.

4 My industry as far as the petroleum retailer
5 side of the house was fully in favor of supporting ARB
6 on its move for cleaner burning gasoline. I served on
7 the committee in '94. It was strongly suggested and
8 recommended through ARB that MTBE be the additive of
9 choice in the oxygenate. It has literally cost my
10 industry – and I'm not sitting here in support of the
11 oil companies by any means, but I'm talking about the
12 small businesses – hundreds of millions of dollars.

13 We have situations that we face where
14 implementation of sound environmental policy as far as
15 our protection of the environment has not – the thing
16 that has lacked is the ability of the regulatory
17 community to realize that the capitalization of those
18 improvements takes a little time, and because you
19 introduce it and you have a short window of
20 implementation, it becomes almost, I mean it's driven
21 more small businesses out of business than has. It has
22 to happen, but there needs to be a public forum such as
23 a board, I believe, to understand and hear this.

24 BAR's oversight of the Committee has allowed
25 for public comment in different venues, but the problem

1 is that if the public – and we'll bring one right now
2 that's a reality, I mean, and that's the evap tester.
3 Is an evap tester an item that industry should be doing
4 in the area of Smog Check? Yes, I believe it is. It
5 should be a viable method of reducing emissions, but
6 the way that it has been submitted with the program
7 being as manipulated as it has through the testing
8 industry, I guarantee you this industry will rebel in
9 its current form for an evap testing. You may be very
10 surprised at what would happen if the mandate came down
11 to purchase an evap tester under the current market
12 conditions that exist that are created because of the
13 regulatory issues that really, if they had had a board
14 or some forum like IMRC and paid attention to those
15 issues, then the problems within the industry could
16 have been solved before they become an issue of such
17 contention. And that is my concerns. I don't know if
18 this is good or bad.

19 CHAIR WEISSER: The issue of would it be
20 helpful to the program to have a board working with BAR
21 rather than its existing structure is almost separate
22 and apart from whether the policy for the Smog Check
23 Program should be driven by BAR or ARB. I think that
24 Jude's comment is correct that the ARB structure
25 provides a lot more, as board structures do, a lot more

1 opportunity for public involvement than the existing
2 BAR structure. I think the BAR structure, whether they
3 retain the policy direction role or not, would likely
4 be improved with a board structure, that would be my
5 take-home message, and perhaps that's something that we
6 might want to add to our list of issues to go into for
7 a future report.

8 John and then Jude.

9 MEMBER HISSERICH: Just a couple of comments.
10 I basically am supportive, as of course obviously being
11 on the subcommittee I've been engaged in the discussion
12 as this went forward.

13 You know, the notion that BAR, as we go back
14 to the history of it, was created in response to
15 consumer and automotive industry concerns about
16 unacceptable levels of fraud and/or incompetence,
17 they've done an excellent job of that and that's their
18 role, that's their goal, and this change would not
19 eliminate them from still being that buffer, and in
20 fact would probably put in some ways in an advantageous
21 position to do that.

22 And as you've said initially and I think we
23 need to reinforce, the goal here is not protection from
24 fraud, that's a desirable thing, it is air quality
25 improvement, and so you want agencies that have as

1 their principle mission the ability to implement things
2 in relation to that mission.

3 Now to the report itself there's a couple of
4 things that we might just want to touch on here. In
5 what we are saying is our recommended option, in the
6 cons, to be fair, we've cited in the objections to 3
7 and 4 that there would be required significant
8 legislative change. I don't know, I mean, significance
9 is a relative sort of a term of art, but presumably,
10 and we know that they would require legislative change
11 as well, so I think in fairness just to be balanced in
12 our recommendations we have to say that this does
13 require some, whether it's significant or not, but I
14 think it is fairly significant legislative change.

15 CHAIR WEISSER: I think that's a good point
16 and I think we should, you know.

17 MEMBER HISSERICH: Yeah. Well, and then the
18 issue has arisen or has been suggested that it would
19 require quite a bit of dollars, budgetary changes. Now
20 we've heard this notion in relation to the bill that's
21 up that it's 500. Now that's not a huge budgetary
22 change, but we just might, even for just again for
23 balance and fairness, want to say it might require
24 some. We have said minimal staff changes required, and
25 maybe that's all we need to say. I was just kind of

1 wanting to make sure we're not stacking the deck too
2 much in our presentation, but very clearly I think this
3 is the recommended approach.

4 And I think one of my colleagues here was
5 commenting that, you know, maybe the entire relocation
6 of Smog Check into ARB would be desirable, and I think
7 we could all articulate reasons why that may be so. On
8 the other hand, I think that the very balancing of the
9 consumer concern and protection is a reason to leave
10 the Smog Check Program in BAR. They're good at it and
11 they ought to continue to be able to fulfill that role.

12 CHAIR WEISSER: In regard to the first
13 portion of what you were saying, the statutory change,
14 I think we must modify the con side of that and
15 indicate that it requires, you know, I think frankly
16 it's a modest statutory change, much less so than
17 alternatives 3 and 4, so I'd say some statutory change.

18 In terms of the cost figures, that was kind
19 of what prompted my questions regarding who developed
20 it, because I don't understand it. If anything, they
21 were saying a half a million, \$500,000 as five people,
22 and I'm curious as to where that came from. You know,
23 I'm speculating because we were unable to pin that down
24 where it came from, that it's probably five people as
25 policy people. I don't quite get that. So you're

1 going to need some extra people, but you would think
2 that if you're moving policy from one group to another,
3 there's a gain and a loss, I don't know. But I think
4 we have to acknowledge that at least somebody thinks
5 that it's going to or might cost something, so we've
6 got to put some wording in there, I think you're right.

7 Robert?

8 MEMBER PEARMAN: I just want to maybe ask
9 Dennis if he could comment, does he feel that ARB would
10 be a welcome place for his constituents to express
11 their views of the program if this policy shift
12 occurred?

13 MEMBER DECOTA: I believe that it would. I
14 mean, from the standpoint of there is definitely a
15 division between enforcement and air quality
16 improvement. Enforcement cannot be compromised. Fraud
17 is fraud. If the people are doing them wrong, BAR
18 should take them out, and I think the industry feels
19 that way. I don't think there's an industry
20 participant that feels differently.

21 But, on the other hand, is the way the
22 program being administered under BAR's direction the
23 best for both consumers and industry alike and is it
24 removing the amount of emissions that it's intended to
25 do? And I think that's a huge question and I think

1 that's an Air Resources Board question, and we have to
2 be able to interact, you know, with ARB as an industry
3 – and I'm talking from an industry member only position
4 here – in order to make effective change so that we
5 have quantifiable emission reductions.

6 I mean, the modeling issue is the modeling
7 issue, you know. I've been on the Committee longer
8 than – as long as the Committee's been around, and we
9 have found severe flaws in the modeling out of El
10 Monte, and it blew up the last program, and the reason
11 was that the model was not what it was supposed to be
12 as far as accuracy.

13 And again, you know, this whole program is
14 built off of its integrity to, I think, quantify
15 emissions. Doesn't the public have a right to know
16 what their money's being spent for. And I think ARB is
17 where that should be done, I honestly do. And I think
18 ARB can do the tough love, and the tough love could be,
19 hey, if you can't prove that you're in a financial
20 hardship, you repair the car or take it off the road,
21 and I think ARB can do that type of thing much better
22 than BAR. That's tough but I mean, it's the truth.

23 When are we going to change the program and
24 make it an emission reduction program where everybody
25 gives for the good of all, and that's what we have to

1 do and that's my goal on this Committee and always has
2 been.

3 CHAIR WEISSER: I want to emphasize, and
4 we've emphasized this in the report, that we think that
5 the report puts forward, you know, a theory that I
6 believe is a fact, that the nature of the mission of
7 the two agencies differs greatly and that that
8 differing mission will have an impact on decision
9 making. The report, the issue paper, explicitly says
10 that this problem is inherently caused by the fact that
11 neither BAR nor the Department of Consumer Affairs is
12 directly responsible for achieving air quality goals
13 and that it is not the failure of the staff or any
14 particular manager at BAR, it's just a natural result
15 of their mission, the missions being different. And
16 it's very easy to get to personalize this kind of
17 stuff, it's very sensitive, and I just want to make it
18 clear from me and on behalf of this Committee that this
19 isn't a personal thing, this is a result of kind of a
20 deep growing sense of a mismatch of culture that needs
21 to be addressed.

22 Any other comments? Jude.

23 MEMBER LAMARE: Thank you, Mr. Chairman. I
24 appreciate the tenor of your final comment there and I
25 think it's very, very important to emphasize that for a

1 number of years now we've had an arrangement and the
2 Bureau has been the manager of the policy maker, the
3 budgeter. DCA has had charge of the program. They've
4 had a collaborative relationship with ARB but they've
5 been in charge of the program. So that experiment has
6 run its course and for me and I think other members of
7 IMRC there has been a time during which that model was
8 tested and we believe it's now time to move on to a
9 model where ARB is in charge of policy and budget and
10 see whether we get better emission reductions, because
11 it's a simple matter of public administration that the
12 mission of the Bureau and DCA don't fit the mission of
13 the program. Thank you.

14 CHAIR WEISSER: Are there other comments from
15 Committee members? This is a work in progress, and
16 what we're going to do, it's hard for you to comment on
17 something you haven't seen, and I think what we should
18 do, and I put this up to the Committee to give me
19 direction on this, is for us to take a vote essentially
20 as to whether we accept this with the changes that
21 we've highlighted, delegate the implementation or the
22 incorporation of those changes into this memo to Rocky
23 and me and send this out.

24 MEMBER LAMARE: Send it out for public
25 review.

1 CHAIR WEISSER: Well, and I think we've got
2 to get - well, yeah, hold it, we could send -
3 MEMBER LAMARE: Or send it out to us.
4 CHAIR WEISSER: No, I think maybe you're
5 right. We could send this out to public - what my
6 interest is, frankly, is getting this in the hands of
7 the public and the Legislature so that as the
8 discussions on the Lieber bill go forward they're
9 informed by this Committee's perspective.
10 Now, we can send it out as a draft. It will
11 end up in the hands of the staff and whatnot in the
12 Legislature in draft form and then adopt it at our next
13 meeting, or you could say just send it out, make the
14 changes that we've discussed, don't come back for
15 review and send it out. I need some direction that.
16 Why don't you ponder that for a moment.
17 I think it's important for us to also talk
18 about new information that we heard today briefly in
19 relationship to two of the examples that we cite in
20 here, the first being the 2004 program review. We've
21 heard information now from BAR that they've turned
22 around their turnaround on the policy positions that
23 were in the joint ARB/BAR report and are now apparently
24 supportive of those.
25 I don't think it undermines the concerns that

1 we raise in that example over the, frankly the delay in
2 getting this stuff going forward, but I think we need
3 to acknowledge that we did hear some new information,
4 even though it isn't formally approved again. Well, I
5 guess it's still not formally approved, sounds like
6 it's heading on that course.

7 John.

8 MEMBER HISSERICH: On that point I just am
9 still seeking a little clarification about what the
10 caveats that appear to be there are, and I don't know
11 whether there's any more expiation of that could come
12 from BAR at this setting or not, but just my
13 understanding was that, you know, they'd gotten this
14 far and there was a rider on there and I just wondered
15 if we could hear a little more about that.

16 MR. GOLDSTONE: James Goldstone, Deputy Chief
17 at BAR. Just maybe want to clarify the record. I'm
18 not sure if Sylvia from ARB actually said there was a
19 turnaround in the position. I think we've worked out a
20 way to implement and review the recommendations in the
21 report and we're committed to working together to move
22 forward on the recommendations. So I don't have the
23 text in front of me, but I don't want you to be misled
24 that there was a 180 turnaround. The issues are there
25 but we've figured out a way to work together to move

1 forward on the recommendations. So the questions that
2 were raised –

3 CHAIR WEISSER: Do you support the
4 recommendations that are in the report?

5 MR. GOLDSTENE: Well, we're waiting for the
6 review and the final approval of the addendum that will
7 clarify that, and since we don't have the benefit of
8 this in front of us and the Committee doesn't have it,
9 I just don't want the Committee to make assumptions
10 about what Sylvia had said. I mean, we have come
11 together, we have a meeting of the minds, we're moving
12 forward well.

13 CHAIR WEISSER: I'm really glad you clarified
14 it because I in fact was drawn to the perspective, ah,
15 you now are supporting the recommendations. That's not
16 yet the case, but it may be the case but it may be the
17 case under certain other conditions that we'll find out
18 after the stuff is reviewed.

19 MR. GOLDSTENE: Hopefully shortly.

20 CHAIR WEISSER: Great.

21 MR. GOLDSTENE: Yeah. But it's all very
22 positive.

23 CHAIR WEISSER: I'm sure it is. Now, I
24 didn't understand, I don't understand exactly where we
25 are, but I do understand what James said, that they're

1 working toward an agreement on the recommendations as
2 to how they might proceed on them. James is for the
3 record nodding his head in a vertical motion with up-
4 and-down signifying yeah.

5 MEMBER HISSERICH: I guess it would be
6 interesting to see if in the last analysis if ARB
7 changes any of the positions that they took in the
8 initial version of this in order to -

9 CHAIR WEISSER: I have been assured by ARB
10 they have not.

11 MEMBER HISSERICH: Or my impression is, and
12 this of course we'll learn, but I have the impression
13 that, because BAR's position was on the last iteration
14 of this that they wanted to take a 'wait and see'
15 attitude on the impact of the some of the changes that
16 were made, and I'm guessing that they may be wanting to
17 continue a bit of a 'wait and see' attitude to see what
18 goes on, and somehow I don't need to do it for them,
19 we'll get it, but that's just where I think it may be
20 headed.

21 CHAIR WEISSER: The proof of that will be in
22 the pudding and we'll see. For the purposes of this
23 discussion I think the discussion that we have in the
24 document frankly is still reflective of the reality as
25 we're seeing it. Okay.

1 The second aspect of news that we heard
2 today, which I also don't think undermines what we've
3 said, has to do with the section associated with the
4 testing for evaporative emissions. We did get an
5 update on that. Sounds like now things are moving,
6 whereas before the information we got from Chief Ross
7 at the last meeting kind of left me thinking everything
8 was at kind of a standstill, but it sounds like now
9 there's movement again.

10 Just for the record, the issue that we're
11 raising there is, you signed an agreement in 2000 to
12 have an evap test in 2002. Oh, it's 2005. That's our
13 concern. That's our concern.

14 We cite other examples, the public should
15 note. One relating to the adjustment of the repair
16 cost waiver limit, the issue that Member DeCota just
17 made referee to. That was supposed to be adjusted
18 periodically, and when was that established, Rocky,
19 1990 –

20 MR. CARLISLE: 1998.

21 CHAIR WEISSER: 1998. Hasn't been touched.

22 And the last one is the implementation of the
23 emission failure cut points over the enhanced program.

24 Okay. I've given you a moment to ponder, so
25 we can approach this in a couple of ways. We can take

1 | some public comments right now and then move to
2 | discussing how you want to proceed on the finalization
3 | and release of the report. By that I mean do you want
4 | this to come back to the full Committee once again,
5 | which means that we wouldn't get the final out until
6 | June, or do you want us to finalize it and then release
7 | it to the public as a draft, or do you want us just to
8 | finalize it and release it. So first we'll take public
9 | comments. Mr. Ward.

10 | MR. WARD: Thank you, Mr. Chairman. Randy
11 | Ward representing the California Emission Testing
12 | Industries Association. Once again, lightening has
13 | struck and Dennis and I agree.

14 | The issue of evaporative emission testing was
15 | once thought to be something that was particularly
16 | important. It was an element that was included in the
17 | SIP back in '94 to be associated with this program by
18 | the Air Board. Subsequent to that time I think the
19 | BAR's implementation, I'm not going to get into a
20 | position of saying they drug their feet, but it was
21 | certainly to a great extent a technological problem.
22 | The technology just wasn't there. It involved safety
23 | and a whole lot of considerations that I think they can
24 | discuss much better than I, but frankly, I think they
25 | approached it fairly thoughtfully.

1 And the bottom line now is you've got one
2 company. These things are going to cost \$2500 to
3 \$3000, that's the latest numbers I've heard, and
4 there's a second company, I've been told, but they do
5 not have a marketable machine to the best of my
6 knowledge at this point, and you've got an industry
7 that has lost 20 to 25 percent of its business
8 respectively as a result of additional exemptions. So
9 now you're going to hit somebody who might be making
10 \$5,000 or \$6,000 a month doing some smog tests with a
11 \$3,000 purchase of a piece of equipment. This is the
12 straw, okay, that'll break a lot of these guys' backs,
13 okay.

14 Now, here's my thought. Okay, we're talking
15 about the Air Board and the Bureau and who's more
16 responsive to the public, who's more responsive to
17 emissions. Why didn't somebody give some thought to
18 that? Why didn't the Air Board think, well, you know
19 something, we just did something, we participated in
20 this Moyer Program that resulted in hurting the
21 economics of the smog test industry. We're going to
22 need to think of something here, because evap emissions
23 - I mean, this is right in front of them, this is going
24 to cost them some additional money, so why don't we
25 figure out a way that we can satisfy the EPA, get rid

1 of this evaporative emissions machine that's out there
2 now and come up with another solution. Cut points, I
3 don't know what, you've all heard the options.

4 Okay, so when you talk about responsiveness,
5 I mean this is a bureaucracy that's moving in one
6 direction and they don't look back, okay, and all of a
7 sudden now we're faced with a consequence of a \$3,000
8 piece of equipment that is going to be significant when
9 it comes to this industry and there may be some other
10 options out there. So Dennis and I agree.

11 And I would also say that it was the Air
12 Board that was participating in the Moyer Program
13 objective along with the environmental community, and
14 there was no public hearing on that that we
15 participated in, okay. So, I mean, the grass may be
16 greener but it ain't a hundred percent greener. Thank
17 you.

18 CHAIR WEISSER: Randy, I will once again
19 compliment you in finishing your comments under three
20 minutes.

21 Dennis, did you have something you wanted to
22 add or was that just waving your hands?

23 MEMBER DECOTA: I'm just helping.

24 CHAIR WEISSER: Okay. You know, I'm not
25 going to have this discussion move to a discussion of

1 the pros and cons of evaporative emissions, control of
2 evaporative emission. However, the point that we're
3 trying to make in this is there was a commitment made
4 to get something done by 2002 when the economic
5 situation was at a very different place, and let's get
6 a decision one way or another on stuff like this. It's
7 three years late. It's just consistent in my mind with
8 a pattern.

9 Sir.

10 And 15 tons a day is not an insignificant
11 emission reduction. The timing of it, Randy,
12 associated with the loss of business to both test-only
13 and test-and-repair is an incredibly large problem in
14 my mind.

15 MR. RICE: Hello, Committee, I'm Bud Rice
16 with Quality Tune-up Shops. Randy Ward said that
17 lightening had struck and him and Dennis were kind of
18 on the same pace twice in one day. Well, now hell has
19 frozen over because now I agree with Randy, a lot of
20 the comments he was making. I understand your comment
21 about not wanting to go off onto that tangent, so a
22 couple quick things.

23 One is, I might be a little bit naive as I
24 stand in front of you as to how things work, but one of
25 the questions I have is, why don't we try to fix it?

1 Why are we trying to throw it out? Why don't we try to
2 fix some of the maybe the miscommunication or maybe the
3 misadministration of clean air goals versus the
4 implementation from BAR, why just a complete throw-out?
5 Why not attempt to do a fix first?

6 CHAIR WEISSER: Hold on for a second, I'm
7 going to stop your time and I want to respond to that.

8 The BAR has had several chiefs over the last
9 fifteen years. How many, James, that you can remember?
10 Five?

11 MR. GOLDSTENE: Not including myself.

12 CHAIR WEISSER: How many? Four, plus you is
13 five. It's not an organization that's lacked from
14 different leadership coming in and trying to take it in
15 a different path. That's also indicative of what may
16 be just a mismatch in terms of the organization's
17 mission and placement.

18 I don't think this is an issue that you can
19 fix with a band-aid. I actually think you need to
20 relocate surgically a portion of the issue, you know,
21 the portion of the issue that's causing the problem
22 that we're trying to address here, which is policy
23 priorities for air emissions receiving higher priority.
24 Bottom line.

25 The bottom line is, you wouldn't have a Smog

1 Check Program if you didn't care about air quality.
2 It's the only reason we have a Smog Check Program is to
3 reduce emissions. By definition, that should be the
4 highest priority, at least in this member's mind.

5 Please continue, Bud.

6 MR. RICE: Thank you. Based on your
7 comments, the only other thing I would say then would
8 be that to some degree perhaps the BAR has acted kind
9 of a sanity check to what maybe CARB may have wanted to
10 implement with BAR saying, well, okay, this makes some
11 sense, maybe this doesn't make so much sense, so maybe
12 a little bit of checks and balances have been in play
13 with the Bureau being a little bit of a stopgap for
14 what may have been an untimely implementation of
15 something that wasn't ready for prime time yet. Thank
16 you.

17 CHAIR WEISSER: But I think that latter is a
18 point well taken, that a balance needs to be maintained
19 between structuring the program so that it's convenient
20 to the consumer, it's fair to the industry, and the
21 emission reductions that you get are substantial and
22 cost-effective. I agree with you.

23 I think what we're suggesting is that balance
24 needs to be shifted a bit more over to the emission
25 reduction side. That's arguable, and I respect anybody

1 | who would disagree with it. You know, this is not
2 | something that's a black-and-white situation, it's
3 | arguable. I believe pretty strongly that the existing
4 | structure is designed in such a way as to always have
5 | emission reductions be the second class citizen.

6 | Other? Chris.

7 | MR. ERVINE: Chris Ervine with STARS. I
8 | understand that the primary thing that IMRC, BAR and
9 | ARB are after is emission reductions. The thing is
10 | that, and where this should go and who should
11 | administer it, I don't know. I do know that industry
12 | has a huge distrust of the Bureau of Automotive Repair.
13 | They believe that they've been lied to, that the
14 | program has been misrepresented, and they are now
15 | suffering great financial harm.

16 | The evaporative emission program that's being
17 | proposed, we're talking about a program for vehicles
18 | that are disappearing. They're like dinosaurs, they're
19 | going away. It's probably, and I don't have the
20 | figures in front of me but I'm going to guess that it's
21 | probably somewhere around 30 percent or less of the
22 | smog fleet, and we're proposing that we invest \$3,000
23 | to test a very small portion of the smog fleet.

24 | The other thing is that the ones that are
25 | going to be using this equipment the most are the test-

1 onlys, because those vehicles are the ones that are
2 directed to test-only. The test-and-repair industry,
3 the only time we'll ever use the tester is when a
4 vehicle fails at a test-only, so the cost per station
5 for a test-and-repair as opposed to test-only per
6 vehicle is going to be much greater with the test-and-
7 repair industry.

8 Lower cut points. This is another thing that
9 seems to be a hot thing here. The problem that we have
10 here is with lower cut points, once you get below a
11 certain level of the original cut point and you're
12 trying to get just that little tiny bit there, that's
13 where your greatest cost in emission reductions is
14 going to be. It's going to cost you triple, quadruple
15 per ton what it's going to cost to bring it from here
16 down to here, that little bit is going to cost you.

17 I want to share with you something that
18 happened to me just recently. I had to have a vehicle
19 towed, it was my own personal vehicle. I live in a
20 change of ownership area. The tow truck that came out
21 to pick me up was a Ford truck, had a check engine
22 light on. You could not stand downwind of the vehicle
23 while he was hooking up the tow truck. It had a dead
24 miss, it had a burned valve, and talking to the tow
25 truck driver on the way back to my house, it had been

1 that way for a considerable amount of time.

2 If you want great emission reductions, bring
3 the change of ownership into at least basic area where
4 they're tested biennially, and we need to look at
5 bringing a lot of the outlying areas into the enhanced
6 areas, because believe it or not, these vehicles travel
7 from one area to another, and in my particular area
8 Caltrans can tell you what the number is because they
9 just did a traffic count.

10 CHAIR WEISSER: Chris, on the comment you
11 made regarding the cut points I want to be clear that
12 the comments that we have in this issue paper aren't
13 oriented toward reducing the cut points, they were just
14 kind of a review of how long it took from the beginning
15 of implementation of the enhanced system till the cut
16 points reached where they are now. You had a phase-in
17 period, which everyone knows you need, that we felt was
18 kind of glacial in terms of the pace of implementation.

19 We're not saying do lower cut points. I
20 agree completely with what you've said regarding when
21 you're trying to get down to that last little bit it
22 becomes less cost-effective than desirable. There's no
23 move here and no discussion here toward that end. It's
24 just in terms of program implementation, you have to
25 strike a balance between familiarizing the technicians

1 with the system, testing out the system and also
2 garnering those emission reductions. Our comments in
3 that regard are reflective of the belief that we have
4 that that balance went way overboard in terms of the
5 smoothness of administration of the program rather than
6 the garnering of the air quality benefits through
7 emission reductions.

8 MR. ERVINE: I think in defense of BAR and
9 industry, I think that what you're talking about there,
10 I don't feel it was exceptionally slow because there
11 was a great learning curve there not only on industry's
12 part but on the Bureau of Automotive Repair's part on
13 how to reduce a lot of these emissions, and I think
14 that it's just one of those transition periods where it
15 was a big learning curve for a lot of people.

16 CHAIR WEISSER: Thank you. Any other
17 comments? Bob? Robert?

18 MEMBER PEARMAN: No.

19 CHAIR WEISSER: Okay. Then thank you very
20 much for the comments. What I'm going to suggest is,
21 well, I've laid out a system. I'm going to suggest
22 that the Committee authorize Rocky and myself to
23 attempt to get the edits that you've suggested into the
24 report, step one. Step two, that we send that out to
25 the Committee once again as a work in progress for a

1 final review with a 48-hour turnaround time for that
2 final review and to see if there's any additional edits
3 that you believe need to be made. And then number
4 three, we send the report out. That would be my
5 recommendation.

6 Robert?

7 MEMBER PEARMAN: I'd like to make a motion
8 that supports your statements that we have you and
9 Rocky refine this issue paper, that we get a 48-hour
10 turnaround time on comments from the Committee, and
11 then send it out as the Committee's issue paper, and I
12 would add either in that motion or separately that we
13 also in the transmittal of the document off our
14 continuing services to the powers that be to help them
15 as they plan and implement any appropriate changes
16 needed to adopt our findings.

17 MEMBER HISSERICH: I would second that.

18 CHAIR WEISSER: So John Hisserich seconds.
19 Is there any further discussion on this item? All in
20 favor of the motion which has been seconded please
21 signify by saying aye.

22 IN UNISON: Aye.

23 CHAIR WEISSER: Are there any opposed?
24 Hearing none, the motion carries unanimously.

25 Rocky, this will remain on the agenda as one

1 of the report topics, and therefore I think we'll have
2 an opportunity to get more feedback from the public
3 once they get to read what we've drafted they'll find
4 more to disagree and argue about, and that'll be good
5 for us to hear.

6 - oOo -

7 Now you think you're going to lunch, but
8 you're not, because my intention now, considering where
9 we are in the agenda, is to complete the meeting and
10 then we'll break and we can go to our separate lunches
11 or lunch together, so what I'd like to do now is open
12 it up for general public comments on any issue that's
13 been before us or that hasn't been before us on any
14 subject, and I guess I'm going to start it off by
15 suggesting to the group that we add specifically to
16 this list of issues that we indicate that we're looking
17 at the notion of evaluating whether it might serve the
18 program under any organizational structure, it might
19 serve the program were BAR working in the context of a
20 board relationship, so I'd like to get any reactions
21 from the Committee as to whether that's something
22 they're interested in studying, they're interested in
23 looking at sometime in the next months. Any reactions?
24 Bruce?

25 MEMBER HOTCHKISS: Well, I think it's an

1 issue that's come up a number of times over the years
2 and it's not going to go away, so we might as well
3 discuss it.

4 MEMBER HISSERICH: If I may, Mr. Chairman.
5 Do you think that our putting that forward would in any
6 way weaken our consideration of relocating the program
7 as we've just voted by saying, well, oh, never mind,
8 we'll get a board for BAR? I have that bit of a
9 concern.

10 CHAIR WEISSER: Dennis?

11 MEMBER DECOTA: I'll help you with your
12 concern. If it doesn't -- if we don't have the ability
13 to take and make that recommendation I would have
14 difficulty in understanding why we would even consider
15 what we're attempting to do. I don't think it'll work
16 if we don't.

17 MEMBER HISSERICH: I'm sorry, I guess I don't
18 follow.

19 MEMBER DECOTA: I think that if you do not
20 have an improved communication methodology in place in
21 order to better satisfy the automotive repair industry
22 and consumers with regards to enhancements to the Smog
23 Check Program and there isn't a formal dialog
24 referenced in our recommendations, this member will
25 have a great deal of difficulty with a recommendation.

1 CHAIR WEISSER: To respond directly, John, to
2 your statement, I think they're separable issues, but
3 as you see, others may not. And therefore, I'd
4 recommend we put it on our agenda as something we need
5 to kind of look at, and I'd like us to think about it.
6 I'm going to give some thought to it and work with
7 Rocky to figure out, you know, where it stands in the
8 pecking order and how we should approach it in terms of
9 the subcommittee that would help us develop the issue
10 in an analytical fashion, and we'll talk about that
11 perhaps at the next meeting, Rocky, okay, in terms of
12 how do we organize to go forward. If there's no
13 objection, then we'll add it to our list of things we'd
14 like to do.

15 Okay. Now for any comments. We're going to
16 start from the right and work left. Len, please come
17 up.

18 MR. TRIMLETT: Len Trimlett, smogrfg. One of
19 the items on the subcommittee assignments was compare
20 effectiveness of test-and-repair, test-only and Gold
21 Shield stations. I've been waiting to hear that
22 comparison for probably six months. I don't hear
23 anything coming forward. Where do we stand, Jeffrey,
24 on the Committee on that subcommittee?

25 CHAIR WEISSER: Len, you're going to have to

1 direct your questions to me and then I parse them out.
2 That's just how this Committee –
3 MR. TRIMLETT: Okay, Mr. Weisser.
4 CHAIR WEISSER: Jeffrey?
5 MEMBER WILLIAMS: Don't you recall the
6 presentation on the 907,000 Hondas?
7 MR. TRIMLETT: It's coming?
8 CHAIR WEISSER: I think with all respect that
9 Jeffrey has made a number of presentations of great
10 interest and frankly great impact on that precise
11 subject. It's on the website.
12 MEMBER WILLIAMS: The March meeting I did
13 one.
14 MR. TRIMLETT: What's on the website is what
15 we're to refer to. Okay.
16 CHAIR WEISSER: The IMRC website.
17 MR. TRIMLETT: Right, the IMRC website.
18 CHAIR WEISSER: And I think the report that
19 Jeffrey pulled together, extraordinarily in my mind,
20 has had a major desired impact in that ARB and BAR now
21 are going into it in a far broader more extensive
22 study.
23 MR. TRIMLETT: Where can I find a copy of
24 that report?
25 CHAIR WEISSER: On the website.

1 MR. TRIMLETT: Okay.

2 MEMBER WILLIAMS: It was a PowerPoint
3 presentation.

4 CHAIR WEISSER: It's the IMRC website, okay.
5 You know where it is.

6 MR. TRIMLETT: I know where that is.

7 CHAIR WEISSER: All right. If you have any
8 problem finding it, please call Rocky and he'll help
9 you navigate to it and get a copy of the report.

10 MR. TRIMLETT: Okay.

11 MEMBER WILLIAMS: I hope to have another
12 round of analysis to report in June, but we'll see.

13 MR. TRIMLETT: At some point in the future.

14 MEMBER WILLIAMS: In June probably.

15 MR. TRIMLETT: Okay.

16 CHAIR WEISSER: There's been a lot of
17 constructive work done already.

18 MR. TRIMLETT: I have no doubt about that.

19 CHAIR WEISSER: Okay. Thank you, Len. Marty
20 will be last, and only give him two minutes.

21 MR. RICE: Thank you, Committee. Third and
22 final time in front of you today, I promise. Two
23 things.

24 One, I wanted to talk a little bit about one
25 of the comments that Dennis had made about MTBE. The

1 funny thing about that is that as those recommendations
2 were being made to industry about the effectiveness and
3 how great that would be, now we're faced with the
4 outcomes of what that decision was in terms of
5 groundwater and that kind of thing. Point being that
6 sometimes when you make those decisions you don't know
7 what the impact's going to be until after the fact.

8 My question is, in terms of removing cars
9 from the testing pools, is there any way for us to see
10 what those impacts have been both in terms of the air,
11 number of cars, that kind of, and the financial impact
12 to industry as it relates to guys like us doing the
13 tests?

14 CHAIR WEISSER: Bud, I think that's an
15 outstanding suggestion. Considering this Committee had
16 deep concerns regarding the carve-out of vehicles that
17 occurred last year and expressed to both the
18 Legislature and the Administration, I'm wondering
19 whether it wouldn't be worth our time to work with the
20 agencies to see whether we could document what the air
21 quality impact of those decisions have actually been.
22 I don't know, but I'd like you to explore that with
23 both ARB and BAR.

24 In terms of the economic impacts, I think a
25 consortium composed of Mr. DeCota and Mr. Ward would be

1 well suited to come up with an analysis of the economic
2 impacts of that decision, and perhaps you might be
3 interested in doing that, presenting information in
4 that regard to the Committee.

5 MEMBER DECOTA: I wouldn't mind a bit.

6 CHAIR WEISSER: Jude. Oh, do you have
7 something more?

8 MR. RICE: Yeah, final comment was about the
9 board with the Bureau of Automotive Repair, I would
10 just ask the Committee to carefully analyze how that
11 would be done in terms of a naming convention, because
12 Bureau of Automotive Repair Board would be BARB, so you
13 might want to think about that a little bit.

14 CHAIR WEISSER: Well, better than the Bureau
15 of Automotive Repair Foundation. Okay.

16 MEMBER LAMARE: Mr. Chairman.

17 CHAIR WEISSER: My blood sugar is running
18 low, folks.

19 MEMBER LAMARE: I'm losing it, Mr. Chairman.

20 CHAIR WEISSER: Okay. Jude.

21 MEMBER LAMARE: Mr. Rice brought up the MTBE
22 example and Dennis had mentioned that earlier. I
23 managed to keep my tongue at that point, but since it's
24 been brought up twice, I think it's important to point
25 out that the Air Resources Board did not mandate MTBE

1 be included in RFG. What the Air Resources Board did
2 was adopt specs for RFG and the industry, the fuel
3 industry made the decision about how to compose that
4 fuel so that it met the specs, and so I think it's
5 really a mischaracterization to say that the ARB
6 adopted the MTBE requirement for fuel and that that led
7 to all of these expensive and uncomfortable
8 consequences. The industry made the decision about the
9 fuel. Thank you.

10 CHAIR WEISSER: Please let's not become an
11 MTBE debate forum, please, with any future comments.
12 We'll have Dennis and then we'll ask Marty to step up.

13 MEMBER DECOTA: The questions I was asking
14 Ms. Morrow with regards to the report, I think Bud did
15 a better job of articulating, and his question was
16 exactly where I was going with that, so I hope that
17 that doesn't -- and I respectfully disagree with Jude.

18 CHAIR WEISSER: I'm so glad everyone is
19 respectful. Mr. Keller.

20 MR. KELLER: Yes, thank you. Marty Keller,
21 Automotive Repair Coalition. I want to talk about this
22 MTBE thing -- no.

23 CHAIR WEISSER: Thank you. Motion for
24 adjournment.

25 MR. KELLER: I wasn't going to say anything,

1 but since you put this last item on the calendar for
2 discussion with respect to the Board of Automotive
3 Repair, so Bud, we can call it BAR without changing any
4 of the stationery.

5 The Automotive Repair Coalition obviously has
6 been in the thick of this issue since before the Sunset
7 Review hearing which was conducted a year ago in
8 January and would like to offer any insights that we've
9 had to share with you, because one of the things that
10 we're exploring is, is there a way to take the best of
11 bureau structures and combine it with the best of board
12 structures and create some kind of hybrid. I mean,
13 there are pluses and minuses to boards and one of the
14 big minuses is the one that Randy pointed out, that the
15 major impact on this program was done outside the
16 public purview, period, when all these exemptions were
17 created last year as part of the budget deal. So, one
18 of the questions that we could maybe explore together
19 is, is there a third way or an evolutionary model that
20 we can create, and we've got some suggestions we would
21 be glad to share with you that you may or may not want
22 to consider.

23 Secondly, as part of that Sunset Review
24 process, as you probably know, the Department of
25 Consumer Affairs has hired an administrative

1 enforcement monitor who is now going to be on the job
2 looking at reviewing BAR procedures for the next two
3 years and you might want to create a dialog with that
4 monitor and share with him any of the expertise that
5 you may have on the issues that he will be looking at
6 which have to do with regulatory management, fairness
7 of enforcement practices, et cetera, et cetera, all
8 that's contained in the statute that created the
9 monitor, and you may have some expertise that would be
10 of value to him and you might want to enter into a
11 dialog with him.

12 CHAIR WEISSER: I'm wondering whether or not
13 we might want to ask that person to give us a little
14 report on what they're looking at at our next meeting.

15 And Marty, I guess I would like to benefit
16 from the thinking that you and your friends have been
17 doing associated with the board versus department
18 versus hybrid kind of approach on organizations.
19 What's the best vehicle for us becoming aware and more
20 familiar with your -

21 MR. KELLER: We created, when the new
22 Administration came in to test their willingness to
23 take a look at something unique or new, we've created
24 some concepts and I'd be glad to send those over to
25 Rocky, which we obviously thought were brilliant ideas

1 but weren't necessarily received with the same kind of
2 insight. But nonetheless, I think that, again, they
3 may or may not be where we end up.

4 We looked at like the Alcohol Bureau control
5 model which has a completely separate and independent
6 appeals process, because one of the concerns that
7 industry has is that the APA does not really create an
8 actual fair and independent review process, and when
9 that is managed by a bureau chief as opposed to a
10 board, then the responsibility for deciding whether an
11 appeal will be upheld of an administrative decision is
12 made by the same agency that preferred the charges.

13 CHAIR WEISSER: Got it.

14 MR. KELLER: So we looked at some different
15 ways to get around that without creating an entire
16 board to do that, so I'll be glad to send those over to
17 Rocky and he can share those with you as he sees fit.

18 CHAIR WEISSER: Very good. Thank you. Is
19 there anybody else in the audience that would have
20 something they'd like to share with us? Please.

21 MR. WARD: I'll make it quick.

22 CHAIR WEISSER: Well, you are in between me
23 and a hamburger, I will tell you that.

24 MR. WARD: My biggest concern, I think the
25 reason that AB578 was introduced as the huge loss of

1 vehicles that went out of the program at the beginning
2 of the year, and now everybody seems to be kind of
3 scrambling around to try to redivide the pie up, but my
4 concern is the news vehicles that were left out of the
5 program and specifically the change of ownership.
6 Who's going to be liable for those cars? What's going
7 to happen to those cars in four years when they fail
8 their smog test when they've been running around for
9 four years or five years or six years with the light
10 on? And here we have the Air Resources Board which has
11 mandated a very lengthy warranty. What good is that
12 warranty if the car never gets inspected? I mean, the
13 consumer is paying for that warranty to be placed on
14 the car, and then it's never perused by anybody, so I
15 think it's a very important question.

16 CHAIR WEISSER: You're raising the precise
17 issues that we raised in our objections to these carve-
18 outs.

19 MR. WARD: And how have you voiced that to
20 the Legislature, sir?

21 CHAIR WEISSER: We wrote to the Legislature
22 and to the Administration and presented our
23 perspectives on it, and they went a different
24 direction.

25 MR. WARD: Yeah, they sure did without any

1 hearings.

2 CHAIR WEISSER: But the issue, you know,
3 these things don't necessarily get written in concrete,
4 and -

5 MEMBER WILLIAMS: They never go away.

6 CHAIR WEISSER: - and I think that they're
7 issues that -

8 MR. WARD: I didn't hear anything about any
9 legislation being introduced that would roll that back.

10 CHAIR WEISSER: There hasn't been. I think
11 before that would occur there would have to be the
12 development of information to show the impacts are
13 negative impacts outweigh what some people consider to
14 be the positive impacts in terms of -

15 MR. WARD: We got to wait four years for that
16 car to have to get inspected before you can gather your
17 data or how are you going to do that?

18 CHAIR WEISSER: You're preaching to the choir
19 here, so you've made your point. Thank you very much.

20 Are there other comments? Then I will
21 entertain a motion - Mr. Carlisle?

22 MR. CARLISLE: Just like to point out one
23 thing. Mr. Pearman brought it to my attention we did
24 leave out in the executive summary a motion and then an
25 amendment to that motion with regard to AB386 and a

1 subsequent letter to be drafted to the Legislature.

2 CHAIR WEISSER: So you want to reopen our
3 approval of the minutes to allow an amendment that
4 would reflect the fact that this Committee took action
5 on taking a position associated with the Lieber bill;
6 is that correct?

7 MR. CARLISLE: I would defer that decision to
8 you, sir, but -

9 CHAIR WEISSER: Just say yes.

10 MEMBER LAMARE: So moved.

11 MR. CARLISLE: Yes.

12 CHAIR WEISSER: Is there a second from John
13 Hisserich. Any discussion? Hearing none, all in favor
14 signify by saying aye.

15 IN UNISON: Aye.

16 CHAIR WEISSER: Any opposed? Hearing none,
17 the minutes are so amended.

18 MR. CARLISLE: Thank you.

19 CHAIR WEISSER: I will entertain a motion for
20 adjournment.

21 MEMBER DECOTA: So moved.

22 MEMBER LAMARE: Second.

23 CHAIR WEISSER: Okay, you pick out which ones
24 you want, we've got everybody.

25 All in favor say aye.

1 IN UNISON: Aye.

2 CHAIR WEISSER: Thank you. The meeting is
3 adjourned.

4 **(Meeting Adjourned)**

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This is to certify that I, TERRI HARPER,
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24, 2005; that the pages numbered 1 through 121
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and accurate transcription of the aforesaid to the best
of my ability.

Dated June 4, 2005.

TERRI HARPER, Lead Transcriber
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